

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Order Amending Rule 227.1 of the Rules of Civil Procedure; No. 627 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 2nd day of July, 2015, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been published for public comment at 44 Pa.B. 5563 (August 23, 2014):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 227.1 of the Pennsylvania Rules of Civil Procedure is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective October 1, 2015.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 227.1. Post-Trial Relief.

(a) After trial and upon the written Motion for Post-Trial Relief filed by any party, the court may

- (1) order a new trial as to all or any of the issues; or
- (2) direct the entry of judgment in favor of any party; or
- (3) remove a nonsuit; or
- (4) affirm, modify or change the decision; or
- (5) enter any other appropriate order.

Official Note: The motion for post-trial relief replaces the following motions and exceptions: motion for new trial, motion for judgment notwithstanding the verdict, motion upon the whole record after disagreement of a jury, motion in arrest of judgment, motion to remove a nonsuit and exceptions following the decision of the judge in a trial without jury.

The following rules provide for the filing of exceptions, e.g., [**Equity Rule 1530 (exceptions to an auditor's report)**,] Equity Rule 1534 (exceptions to a fiduciary's account), Partition Rule 1569 (exceptions to a master's report) and Divorce Rule 1920.55-2 (exceptions to a master's report), Support Rule 1910.12(e) (exceptions to a hearing officer's report) and Execution Rule 3136(d) (exceptions to sheriff's schedule of proposed distribution).

(b) Except as otherwise provided by Pa.R.E. 103(a), post-trial relief may not be granted unless the grounds therefor,

- (1) if then available, were raised in [**pretrial**] **pre-trial** proceedings or by motion, objection, point for charge, request for findings of fact or conclusions of law, offer of proof or other appropriate method at trial; and

Official Note: If no objection is made, error which could have been corrected in pre-trial proceedings or during trial by timely objection may not constitute a ground for post-trial relief.

Pa.R.E. 103(a) provides that the specific ground for an overruled objection, or the substance of excluded evidence, need not be stated at or prior to trial, or without having made an offer of proof, if the ground of the objection, or the substance of the evidence sought to be introduced, was apparent from the context.

(2) are specified in the motion. The motion shall state how the grounds were asserted in [**pretrial**] **pre-trial** proceedings or at trial. Grounds not specified are deemed waived unless leave is granted upon cause shown to specify additional grounds.

(c) Post-trial motions shall be filed within ten days after

(1) verdict, discharge of the jury because of inability to agree, or nonsuit in the case of a jury trial; or

(2) notice of nonsuit or the filing of the decision in the case of a trial without jury.

If a party has filed a timely post-trial motion, any other party may file a post-trial motion within ten days after the filing of the first post-trial motion.

Official Note: A motion for post-trial relief may be filed following a trial by jury or a trial by a judge without a jury pursuant to Rule 1038. A motion for post-trial relief may not be filed to orders disposing of preliminary objections, motions for judgment on the pleadings or for summary judgment, motions relating to discovery or other proceedings which do not constitute a trial. *See U.S. National Bank in Johnstown v. Johnson*, [**506 Pa. 622**,] 487 A.2d 809 (Pa. 1985).

A motion for post-trial relief may not be filed to matters governed exclusively by the rules of petition practice.

The filing of a motion for post-trial relief is prohibited by the following rules: Rule 1557 (order directing partition)[, **Rules 1910.11(k) and 1910.12(g) (orders of support)**, **Rule 1915.10(b) (order of custody, partial custody or visitation)**, and **Rule 1920.55(c) (final decree of divorce based upon a master's report)**] and **Rule 1930.2 (no post-trial practice in domestic relations matters)**.

(d) A motion for post-trial relief shall specify the relief requested and may request relief in the alternative. Separate reasons shall be set forth for each type of relief sought.

(e) If a new trial and the entry of judgment are sought in the alternative, the court shall dispose of both requests. If the court directs the entry of judgment, it shall also rule on the request for a new trial by determining whether it should be granted if the judgment is thereafter vacated or reversed, and shall specify the grounds for granting or denying the request for a new trial.

(f) The party filing a post-trial motion shall serve a copy promptly upon every other party to the action and deliver a copy to the trial judge.

(g) A motion for post-trial relief may not be filed in an appeal from the final adjudication or determination of a local agency or a Commonwealth agency as to which jurisdiction is vested in the courts of common pleas.

Official Note: See 2 Pa.C.S. § 101 for the definition of “local agency.”

See section 933(a)(1) of the Judicial Code, 42 Pa.C.S. § 933(a)(1), which provides for jurisdiction of appeals from determinations of particular Commonwealth agencies to be in the courts of common pleas.

(h) A motion for post-trial relief shall be filed following a trial upon an appeal from the decision of viewers pursuant to the Eminent Domain Code.

Official Note: Subdivision (h) eliminates any distinction with respect to the filing of a motion for post-trial relief between jury and non-jury trials following an appeal from the decision of viewers in eminent domain proceedings.

(i) When an appellate court has remanded a case for further proceedings, a motion for post-trial relief relating to subsequent rulings in the trial court shall not be required unless

(1) the appellate court has specified that the remand is for a complete or partial new trial, or

(2) the trial court indicates in its order resolving the remand issues that a motion for post-trial relief is required pursuant to this rule.

EXPLANATORY COMMENT

In *Newman Development Group of Pottstown, LLC v. Genuardi's Family Markets, Inc. and Safeway, Inc.*, 52 A.3d 1233 (Pa. 2012), the Supreme Court of Pennsylvania examined the provisions of Rule 227.1 to determine whether a party must file a motion for post-trial relief following the resolution by the trial court of matters remanded by an appellate court. While it concluded in that case that a motion for post-trial relief was not required because the remand proceeding, which relied on an existing record, was not a trial, even though the trial court drew a different conclusion from that record to comport with the appellate court's directive, the Court held that Rule 227.1 is silent as to any procedure for post-trial relief when a matter has been remanded for further consideration by the trial court. *Id.* at 1251.

To close this gap, the Supreme Court has amended Rule 227.1 by adding new subdivision (i). Specifically addressing the remand context, the amendment would not require the filing of a motion for post-trial relief following the resolution of matters remanded by an appellate court except under the following circumstances: (1) the appellate court has specified that the remand is for a complete or partial new trial, or (2) the trial court states in its order resolving the issue remanded that a motion for post-trial relief is required in order to preserve those issues for appellate review.

The amendment is intended to give the practitioner certainty as to when a motion for post-trial relief is required in the remand context, and thus, to prevent waiver of those issues upon further appellate review. It is also intended to facilitate the underlying purpose of the rule, which is to allow the trial court to reconsider its determination and to make any corrections before it is appealed without inundating it with unnecessary motions.

*By the Civil Procedural
Rules Committee*

PETER J. HOFFMAN,
Chair

[Pa.B. Doc. No. 15-1309. Filed for public inspection July 17, 2015, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1950]

Order Adopting Rules 1951—1959 of the Rules of Civil Procedure; No. 626 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 29th day of June, 2015, upon the recommendation of the Domestic Relations Procedural Rules Committee, the proposal having been published for public comment in the *Pennsylvania Bulletin*, 45 Pa.B. 1607 (April 4, 2015):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1951—1959 of the Pennsylvania Rules of Civil Procedure are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2015.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1950. ACTIONS PURSUANT TO THE PROTECTION OF VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION ACT

Rule	
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1959.	Forms for Use in Protection of Victims of Sexual Violence or Intimidation Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

Rule 1951. Definitions.

As used in this chapter:

the Act—Act of Mar. 21, 2014, P. L. 365, No. 25 relating to the protection of victims of sexual violence or intimidation, 42 Pa.C.S. §§ 62A01—62A20.

action—a proceeding for protection from sexual violence or intimidation as defined in § 62A03 of the Act.

court—the court of common pleas.

emergency order—an order entered by a hearing officer, who is a person satisfying the definition set forth in 42 Pa.C.S. § 62A03.

fees—any fees or costs, including but not limited to the filing, issuance, registration, service or appeal of a protection action under the Act, including any foreign protection order.

temporary order or temporary protection order—an *ex parte* order entered by the court pursuant to 42 Pa.C.S. § 62A06(b).

plaintiff—an individual who applies for a protection order, either for the benefit of that individual or on behalf of another individual.

protection order or order—an order issued under the Act.

Rule 1952. Venue.

(a) An action for protection of victims of sexual violence or intimidation may be brought in a county where:

- (1) the plaintiff resides, either temporarily or permanently;
- (2) the plaintiff is employed;
- (3) the defendant may be served; or
- (4) the sexual violence or intimidation occurred.

(b) An action for indirect criminal contempt may be filed in, and heard by, the court in the county where the order was issued or the violation occurred.

Rule 1953. Commencement of Action.

(a) Except as provided in subdivision (b), an action shall be commenced by filing with the prothonotary a petition alleging the need for protection from the defendant with respect to sexual violence or intimidation. The petition shall be identical in content to the form set forth in Pa.R.C.P. No. 1959(b) and shall have the Notice of Hearing and Order set forth in Pa.R.C.P. No. 1959(a) as the first page(s).

(b) If an emergency order has been entered pursuant to 42 Pa.C.S. § 62A09, an action shall be commenced by filing with the prothonotary the certified emergency order and any documentation in support.

(c) Any fees associated with this action shall not be charged to the plaintiff.

Rule 1954. Service of Original Process. Registration of Order. Service of Petition and Order. Fees.

(a) Service of the petition or certified emergency order, the notice and order scheduling the hearing and any temporary order in a protection of victims of sexual violence and intimidation action shall be in accordance with Pa.R.C.P. No. 1930.4 and consistent with the rules for service in protection from abuse matters.

(b) An Affidavit of Service, substantially in the form set forth in Pa.R.C.P. No. 1959(d), shall be filed with the prothonotary.

(c) Within 24 hours of entry of a protection order under the Act, the prothonotary shall transmit a copy of the order to the Pennsylvania State Police Statewide Registry in the manner prescribed by the Pennsylvania State Police.

(d) If a petition alleges an act of sexual violence perpetrated on a minor child, the prothonotary shall serve a copy of the petition and any protection order entered under the Act to the Department of Human Services of the Commonwealth and the county children and youth social service agency in the jurisdiction where the order was entered.

(e) Within two business days of any protection order under the Act being entered, the prothonotary shall serve a copy of the order to the police department, sheriff and district attorney in the jurisdiction where the order was entered.

(f) No fee shall be charged to the plaintiff for service of any protection order or pleading or for the registration, filing and service of any foreign protection order.

Rule 1955. Enforcement.

A plaintiff may file a private criminal complaint against a defendant alleging indirect criminal contempt for a violation of any provision of a protection order or agreement with the court, the Office of the District Attorney or the magisterial district judge in the jurisdiction or county where the violation occurred. However, in a county of the first class, a complaint may be filed only with the Family Division of the Court of Common Pleas or the Office of the District Attorney.

Official Note: See 42 Pa.C.S. § 62A13.

Rule 1956. No Responsive Pleading Required.

No pleading need be filed in response to the petition or the certified emergency order. All averments not admitted shall be deemed denied.

Rule 1957. Decision. Post-Trial Relief.

(a) The decision of the court may consist of only general findings of sexual violence and/or intimidation, but shall dispose of all claims for relief. The court's final order shall be rendered identical in content to the form set forth in Pa.R.C.P. No. 1959(e).

(b) No motion for post-trial relief may be filed to the final order.

Rule 1958. Discontinuance or Modification.

(a) In cases in which a temporary protection order has not yet been granted or has been denied, a plaintiff in a protection of victims of sexual violence or intimidation action, who wishes to discontinue the action, may file a praecipe to discontinue, pursuant to Pa.R.C.P. No. 229, prior to the final order hearing. The plaintiff also may request the discontinuance by oral motion at a hearing.

(b) In cases in which a temporary protection order has been granted, a plaintiff who wishes to vacate the temporary order and discontinue the action shall either file a petition with the court prior to the final order hearing or make the request by oral motion at the final order hearing.

(c) If either party seeks a modification after a final protection order has been entered, the party shall petition the court to modify the final order. Modification may be ordered after the filing and service of the petition and a hearing on the petition pursuant to 42 Pa.C.S. § 62A17.

Rule 1959. Forms for Use in Protection of Victims of Sexual Violence or Intimidation Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

(a) The Notice of Hearing and Order required by Pa.R.C.P. No. 1953 shall be identical in content to the following form:

(Caption)

NOTICE OF HEARING AND ORDER

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following papers, you must appear at the hearing scheduled herein. If you fail to appear, the case may proceed against you and a FINAL order may be entered against you granting the relief requested in the petition.

A hearing on the matter is scheduled for the _____ day of _____, 20____ at _____ .m. in Courtroom _____ at _____ Courthouse, _____, Pennsylvania.

If a temporary protection order has been entered, you MUST obey the order until it is modified or terminated by the court after notice and a hearing. If you disobey that order, the police or sheriff may arrest you. A violation of this order may subject you to a charge of indirect criminal contempt. A violation may also subject you to prosecution and criminal penalties under the Pennsylvania Crimes Code. Under 18 U.S.C. § 2265, an order entered by the court may be enforceable in all fifty (50) States, the District of Columbia, Tribal Lands, U.S. Territories and the Commonwealth of Puerto Rico. If you travel outside of the state and intentionally violate this order, you may be subject to federal criminal proceedings under the Violence Against Women Act, 18 U.S.C. § 2262.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER IMMEDIATELY. YOU HAVE THE RIGHT TO HAVE A LAWYER REPRESENT YOU AT THE HEARING. THE COURT WILL NOT, HOWEVER, APPOINT A LAWYER FOR YOU. IF YOU DO NOT HAVE A LAWYER, GO TO OR CALL THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE. IF YOU CANNOT FIND A LAWYER, YOU MAY HAVE TO PROCEED WITHOUT ONE.

County Lawyer Referral Service
(insert Street Address)
(insert City, State, and ZIP)
(insert Phone Number)

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of _____ County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

BY THE COURT:

Judge

Date

(b) The petition in an action filed pursuant to the Act shall be identical in content to the following form:

(Caption)

PETITION FOR PROTECTION OF VICTIMS OF

- SEXUAL VIOLENCE**
 SEXUAL VIOLENCE AGAINST A MINOR CHILD
 INTIMIDATION

1. Plaintiff:

First Middle Last Name

Plaintiff's Address: _____

Plaintiff's address is confidential pursuant to 42 Pa.C.S. § 62A11.

Plaintiff's Date of Birth: _____

I am filing this petition on behalf of myself or another person.

If you checked "myself," please answer all questions referring to yourself as "Plaintiff." If you checked "another person," please answer all questions referring to that person as "Plaintiff," and provide your name and address below.

Name: _____

Address: _____

If you checked "another person," indicate your relationship to the plaintiff:

2. Defendant:

First Middle Last Name

Defendant's Address: _____

DEFENDANT IDENTIFIERS			
DOB		HEIGHT	
SEX		WEIGHT	
RACE		EYES	
HAIR			
SSN			
DRIVERS LICENSE #			
EXP DATE		STATE	

3. Name(s) of other designated person(s) under 42 Pa.C.S. § 62A07(b)(1):

4. Is there a relationship between Plaintiff and Defendant? _____. If yes, what is the relationship?

5. Have Plaintiff and Defendant been involved in any other legal proceedings? If so, state when and where the case was filed and the court docket number, if known:

6. Has Defendant been involved in any criminal proceedings?

If you answered Yes, is Defendant currently on probation or parole?

7. (a) The facts of the most recent incident of sexual violence are as follows:

Approximate Date: _____

Approximate Time: _____

Place: _____

Describe in detail what happened, including any physical or sexual abuse, threats, injury, incidents of stalking, medical treatment sought, and/or calls to law enforcement (attach additional sheets of paper if necessary):

(b) The facts of the most recent incident of intimidation are as follows:

Approximate Date: _____

Approximate Time: _____

Place: _____

Describe in detail what happened, including medical treatment sought, and/or calls to law enforcement (attach additional sheets of paper if necessary):

8. If Defendant has committed prior acts of sexual violence or intimidation against Plaintiff, describe these prior incidents, and indicate approximately when such acts occurred (attach additional sheets of paper if necessary):

9. Identify the sheriff, police department, or other law enforcement agency in the area in which Plaintiff lives that should be provided with a copy of the protection order:

10. Is there an immediate and present danger for further acts of sexual violence or intimidation from Defendant against Plaintiff? If so, please describe:

FOR THE REASONS SET FORTH ABOVE, I REQUEST THAT THE COURT ENTER A TEMPORARY ORDER AND, AFTER A HEARING, A FINAL ORDER THAT WOULD INCLUDE ALL OF THE FOLLOWING RELIEF (CHECK ALL FORMS OF RELIEF REQUESTED):

- A. Restrain Defendant from having any contact with the victim, including, but not limited to, entering the victim's residence, place of employment, business, or school.
- B. Prohibit indirect contact through third parties.
- C. Prohibit direct or indirect contact with other designated persons.
- D. Order Defendant to pay the fees of this action.
- E. Order the following additional relief, not listed above:

F. Grant such other relief as the court deems appropriate, including, but not limited to, issuing an order under 42 Pa.C.S. § 62A11(b) related to the non-disclosure of the victim's address, telephone number, whereabouts or other demographic information.

G. Order the police, sheriff or other law enforcement agency to serve the Defendant with a copy of this petition, any order issued, and the order for the hearing. Plaintiff will inform the designated authority of any addresses, other than Defendant's residence, where Defendant can be served.

VERIFICATION

I verify that the statements made in this petition are true and correct to the best of my knowledge. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Signature _____

Date _____

(c) The Temporary Order of Court, or any continued, amended or modified Temporary Order of Court, entered pursuant to the Act shall be identical in content to the following form:

(Caption)

TEMPORARY ORDER FOR PROTECTION OF VICTIMS OF

- SEXUAL VIOLENCE**
- SEXUAL VIOLENCE AGAINST A MINOR CHILD**
- INTIMIDATION**

Plaintiff:

First Middle Last Name

Plaintiff's address: _____

Plaintiff's address is confidential pursuant to 42 Pa.C.S. § 62A11.

Defendant:

First Middle Last Name

Defendant's Address: _____

DEFENDANT IDENTIFIERS			
DOB		HEIGHT	
SEX		WEIGHT	
RACE		EYES	
HAIR			
SSN			
DRIVERS LICENSE #			
EXP DATE		STATE	

AND NOW, this _____ day of _____, 20____, upon consideration of the attached Petition for Protection of Victims of Sexual Violence or Intimidation, the court hereby enters the following Temporary Order:

- Plaintiff's request for a Temporary Protection Order is denied.
- Plaintiff's request for a Temporary Protection Order is granted.

1. The following person is protected under this order:

2. Defendant is:

- A. Restrained from having any contact with the victim, including, but not limited to, entering the victim's residence, place of employment, business, or school.
- B. Prohibited from indirect contact with the victim through third parties.
- C. Prohibited from direct or indirect contact with the following designated persons:

3. Additional relief, including, but not limited to, issuing an order under 42 Pa.C.S. § 62A11(b) related to the non-disclosure of the victim's address, telephone number, whereabouts or other demographic information:

4. A certified copy of this order shall be provided to the sheriff or police department where Plaintiff resides and any other agency specified (insert name of agency):

5. THIS ORDER SUPERSEDES ANY PRIOR PROTECTION OF VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION ORDER OBTAINED BY THE SAME PLAINTIFF AGAINST THE SAME DEFENDANT.

6. THIS ORDER APPLIES IMMEDIATELY TO THE DEFENDANT AND SHALL REMAIN IN EFFECT UNTIL _____ (insert expiration date) OR UNTIL OTHERWISE MODIFIED OR TERMINATED BY THIS COURT AFTER NOTICE AND A HEARING.

NOTICE TO THE DEFENDANT

Defendant is hereby notified that violation of this order may result in arrest for indirect criminal contempt. Under 18 U.S.C. § 2265, an order entered by the court may be enforceable in all fifty (50) States, the District of Columbia, Tribal Lands, U.S. Territories and the Commonwealth of Puerto Rico. If you travel outside of the state and intentionally violate this order, you may be subject to federal criminal proceedings under the Violence Against Women Act, 18 U.S.C. § 2262. Consent of Plaintiff shall not invalidate this order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 42 Pa.C.S. § 62A17. Defendant is further notified that violation of this order may subject him/her to prosecution and criminal penalties under the Pennsylvania Crimes Code.

NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS

The police department and sheriff who have jurisdiction over Plaintiff's residence, the location where a violation of this order occurs, or where Defendant may be located, shall enforce this order. The court shall have jurisdiction over any indirect criminal contempt proceeding, either in the county where the violation occurred or where this protective order was entered. An arrest for violation of paragraphs 2 and 3 of this order may be without warrant, based solely on probable cause, whether or not the violation is committed in the presence of the police or any sheriff. 42 Pa.C.S. § 62A12.

When Defendant is placed under arrest for violation of the order, Defendant shall be taken to the appropriate authority or authorities before whom Defendant is to be arraigned. A "Complaint for Indirect Criminal Contempt" shall then be completed and signed by the police officer, sheriff or Plaintiff. Plaintiff's presence and signature are not required to file the complaint.

If sufficient grounds for violation of this order are alleged: (1) Defendant shall be arraigned; (2) bond set, if appropriate; and (3) both parties shall be given notice of the date of the hearing.

BY THE COURT:

Judge

Date

(d) The form of the Affidavit of Service in a proceeding under the Act shall be substantially in the following form:
(Caption)

AFFIDAVIT OF SERVICE

I, _____, the undersigned, hereby state that I served a copy of the Notice of Hearing and Order, Petition and Temporary Order in the above-captioned action upon Defendant by handing the papers to

at the following address:

on the ____ day of _____, 20____, at approximately _____ o'clock __.m.

I verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

(Signature)

(Title)

(Address)

(Date)

THIS FORM MUST BE COMPLETED AND SIGNED BY THE PERSON WHO SERVES THE DEFENDANT WITH THE NOTICE OF HEARING AND ORDER, PETITION AND TEMPORARY ORDER. IT MUST BE FILED WITH THE PROTHONOTARY OR BROUGHT TO THE COURT ON THE HEARING DATE.

(e) The Final Order of Court, or any amended, modified or extended Final Order of Court, entered pursuant to the Act shall be identical in content to the following form:

(Caption)

FINAL ORDER FOR PROTECTION OF VICTIMS OF

- SEXUAL VIOLENCE**
- SEXUAL VIOLENCE AGAINST A MINOR CHILD**
- INTIMIDATION**

Plaintiff:

First Middle Last Name

Plaintiff's address:

Plaintiff's address is confidential pursuant to 42 Pa.C.S. § 62A11.

Defendant:

First Middle Last Name

Defendant's Address:

DEFENDANT IDENTIFIERS			
DOB		HEIGHT	
SEX		WEIGHT	
RACE		EYES	
HAIR			
SSN			
DRIVERS LICENSE #			
EXP DATE		STATE	

The court hereby finds that it has jurisdiction over the parties and the subject matter and that Defendant has been provided with reasonable notice and opportunity to be heard.

Defendant was served in accordance with Pa.R.C.P. No. 1954(a) and provided notice of the time, date and location of the hearing scheduled in this matter.

Order Effective Date: _____ Order Expiration Date: _____

AND NOW, this _____ day of _____, 20____, upon consideration of the attached Petition for Protection of Victims of Sexual Violence or Intimidation, the court hereby enters the following Final Order:

It is ORDERED, ADJUDGED AND DECREED as follows:

This order is entered (check one) by agreement; by agreement without an admission; after a hearing and decision by the court; after a hearing at which Defendant was not present, despite proper service being made; by default. Without regard as to how the order was entered, this is a final order of court subject to full enforcement pursuant to the Protection of Victims of Sexual Violence or Intimidation Act.

Plaintiff's request for a final protection order is denied.

OR

Plaintiff's request for a final protection order is granted.

1. The following person is protected under this order:

2. Defendant is:

A. Restrained from having any contact with the victim, including, but not limited to, entering the victim's residence, place of employment, business or school.

B. Prohibited from indirect contact with the victim through third parties.

C. Prohibited from direct or indirect contact with the following designated persons:

D. Ordered to pay the fees of this action.

3. Additional relief, including, but not limited to, issuing an order under 42 Pa.C.S. § 62A11(b) related to the non-disclosure of the victim's address, telephone number, whereabouts or other demographic information:

4. Because this order followed a contested proceeding, or a hearing at which Defendant was not present, despite being served with a copy of the petition, temporary order and notice of the date, time and place of the hearing, Defendant is ordered to pay an additional \$100 surcharge to the court, which shall be distributed in the manner set forth in 42 Pa.C.S. § 62A05(c.1).

5. THIS ORDER SUPERSEDES ANY PRIOR PROTECTION OF VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION ORDER OBTAINED BY THE SAME PLAINTIFF AGAINST THE SAME DEFENDANT.

NOTICE TO THE DEFENDANT

Defendant is hereby notified that violation of this order may result in arrest for indirect criminal contempt. Under 18 U.S.C. § 2265, an order entered by the court may be enforceable in all fifty (50) States, the District of Columbia, Tribal Lands, U.S. Territories and the Commonwealth of Puerto Rico. If you travel outside of the state and intentionally violate this order, you may be subject to federal criminal proceedings under the Violence Against Women Act, 18 U.S.C. § 2262. Consent of Plaintiff shall not invalidate this order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 42 Pa.C.S. § 62A17. Defendant is further notified that violation of this order may subject him/her to prosecution and criminal penalties under the Pennsylvania Crimes Code.

NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS

The police department and sheriff who have jurisdiction over Plaintiff's residence, the location where a violation of this order occurs, or where Defendant may be located, shall enforce this order. The court shall have jurisdiction over any indirect criminal contempt proceeding, either in the county where the violation occurred or where this protective order was entered. An arrest for violation of paragraphs 2 and 3 of this order may be without warrant, based solely on probable cause, whether or not the violation is committed in the presence of the police or any sheriff. 42 Pa.C.S. § 62A12.

When Defendant is placed under arrest for violation of the order, Defendant shall be taken to the appropriate authority or authorities before whom Defendant is to be arraigned. A "Complaint for Indirect Criminal Contempt" shall then be completed and signed by the police officer, sheriff or Plaintiff. Plaintiff's presence and signature are not required to file the complaint.

If sufficient grounds for violation of this order are alleged: (1) Defendant shall be arraigned; (2) bond set, if appropriate; and (3) both parties shall be given notice of the date of the hearing.

BY THE COURT:

Judge

Date

If a Final Order of Court is entered pursuant to the consent of the plaintiff and the defendant, both shall sign the order along with their counsel, if any:

(Plaintiff's signature)

(Defendant's signature)

(Plaintiff's attorney's signature)

(Defendant's attorney's signature)

Official Note: Pa.R.C.P. No. 1959(a), (b), (c), and (e) utilize the phrase “shall be identical in content” in reference to the form documents provided under those subparagraphs, which include the Notice of Hearing, the Petition for Protection of Victims of Sexual Violence or Intimidation, the Temporary Order, and the Final Order. In using “shall be identical in content” rather than the more usual phrase “shall be substantially in the following form,” the intent of the rule is to ensure only the relevant information and relief authorized under the Act is incorporated into any third-party generated form document while allowing for stylistic differences as to format and layout.

[Pa.B. Doc. No. 15-1310. Filed for public inspection July 17, 2015, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 5]

Proposed Revision of the Comment to Rule 500

The Criminal Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the revision of the Comment to Rule 500 (Preservation of Testimony After Institution of Criminal Proceedings) for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Jeffrey M. Wasileski, Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
601 Commonwealth Avenue, Suite 6200
Harrisburg, PA 17106-2635
fax: (717) 231-9521
e-mail: criminalrules@pacourts.us

All communications in reference to the proposal should be received by no later than Friday, September 4, 2015. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Criminal Procedural Rules Committee

PAUL M. YATRON,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART A. Preservation of Testimony

Rule 500. Preservation of Testimony After Institution of Criminal Proceedings.

* * * * *

Comment

* * * * *

“May be unavailable,” as used in paragraph (A), is intended to include situations in which the court has reason to believe that the witness will be unable to be present or to testify at trial or other proceedings, such as when the witness is dying, or will be out of the jurisdiction and therefore cannot be effectively served with a subpoena, **or is elderly, frail, or demonstrates the symptoms of mental infirmity or dementia**, or may become incompetent to testify for any **other** legally sufficient reason.

* * * * *

Official Note: Rule 9015 adopted November 8, 1982, effective January 1, 1983; amended March 22, 1989, effective July 1, 1989; renumbered Rule 500 and amended March 1, 2000, effective April 1, 2001; **Comment revised , 2015, effective , 2015.**

Committee Explanatory Reports:

* * * * *

Report explaining the proposed Comment revisions refining the definition of “unavailable” to include the elderly published for comment at 45 Pa.B. 3810 (July 18, 2015).

REPORT

Proposed Revision of the Comment to Pa.R.Crim.P. 500

Availability of the Elderly to Testify

Recently, the Committee was asked by the Court to consider the recommendations of Elder Law Task Force

related to criminal procedure. In April 2013, the Court created the Elder Law Task Force to study the issues of access to justice being faced by older Pennsylvanians. In November 2014, the Task Force issued a report with a number of recommendations intended to enhance the way Pennsylvania elders interact with the state court system and are protected in cases involving abuse, neglect, guardianship, conservatorship and other matters.¹ Based on the recommendation of the Task Force, the Court established an Office of Elder Justice in the Courts to implement many of the recommendations in the report as well as an Advisory Council on Elder Justice in the Courts to serve as the judiciary's liaison to the executive and legislative branches.

One of the Task Force's recommendations related to criminal procedural issues is the suggestion that the Comment to Pa.R.Crim.P. 500 (Preservation of Testimony) be revised "to help ensure the testimony of elder victims and witnesses in criminal cases can be preserved."² Rule 500 provides procedures for the pre-trial preservation of testimony of those witnesses who may be unavailable to testify for trial or other proceedings or where, due to exceptional circumstances, it is in the interests of justice to preserve the witness' testimony. Consistent with the Task Force's recommendation, the Advisory Council suggested to the Court that the Rule 500 Comment be revised to further define the phrase "exceptional circumstances" to include the circumstances where the victim is an elder, is frail, or demonstrates the symptoms of mental infirmity or dementia, creating the risk that they will not be able to testify in the future. The Advisory Council also suggested that persons 60 or older be presumed to be elders for purposes of preserving testimony.

The Committee considered that the language of the Comment already is broad enough to cover the situation where a victim/witness would be unavailable to testify due to age-related incapacity such as frailty or dementia. However, the Committee concluded that it would be helpful to explicitly state in the Comment that these conditions are contemplated by the rule. Therefore, the language of the third paragraph of the Comment would be revised as follows:

"May be unavailable," as used in paragraph (A), is intended to include situations in which the court has reason to believe that the witness will be unable to be present or to testify at trial or other proceedings, such as when the witness is dying, or will be out of the jurisdiction and therefore cannot be effectively served with a subpoena, **or is elderly, frail or demonstrating symptoms of mental infirmity or dementia**, or may become incompetent to testify for any **other** legally sufficient reason.

The proposed revision also added the word "other" before "legally sufficient reason" to the final phrase of the paragraph since mental infirmity and dementia are also "legally sufficient reasons" for determining unavailability. The Committee reviewed the suggestion that there be a presumption for that those "age 60 and over" fall within the definition of "elderly" for purposes of constituting "exceptional circumstances," and concluded such a presumption was unnecessary under the criminal rules. It appears that the Advisory Council, in making this suggestion, was attempting to maintain uniformity of its definition of "elderly" with the various state and federal statutes that provide for assistance to the elderly. How-

ever, the purpose of the definition under those statutes, e.g. for the provision of services or prohibition of age-based discrimination, is qualitatively different from the purpose of Rule 500 which seeks to provide for the recording of testimony of a witness who would be unavailable at trial. The Committee concluded that this particular age-based presumption was not consistent with a general competency to testify.

The Task Force also recommended that "Rule 504 (Contents of the Complaint) be amended to include either the date of birth of the victim, or including a check box (to be marked) that identified the individual as an elder (age 60 or over)." The rationale for this change was that this information would be used to obtain statistics of the incidents of elder abuse occurring in the Commonwealth, "and thus further efforts to address the extent of physical and financial abuse against elderly victims." The Committee, after considering the recommended change, agreed not to propose this recommendation. The Committee noted that the purpose of the criminal complaint is as a charging document intended to put the defendant on notice of the charges against him or her and is not a suitable a means of gathering statistical information which could be obtained by other methods. Furthermore, the members expressed concern about the potential for identity theft from including this requirement in a public document. While perhaps not as dangerous as requiring a Social Security Number, the date of birth is a critical personal identifier and requiring it to be placed on a public record is not advisable. It should be noted that nothing in this proposal is intended to preclude the inclusion of a victim age in the complaint's description of the acts of the defendant when the victim's age is an element of the offense charged.

[Pa.B. Doc. No. 15-1311. Filed for public inspection July 17, 2015, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CHS. 100, 200 AND 1200]

Order Amending Rules 206 and 1201—1209, and the Official Notes to Rules 112, 215 and 1210—1211 of the Rules of Civil Procedure before Magisterial District Judges; No. 387 Magisterial Doc.

Order

Per Curiam

And Now, this 29th day of June, 2015, upon the recommendation of the Minor Court Rules Committee; the proposal having been published for public comment at 44 Pa.B. 7642 (December 13, 2014):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 206 and 1201—1209, and the Official Notes to Rules 112, 215 and 1210—1211 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2015.

¹ See *Elder Law Task Force Report*, <http://www.pacourts.us/courts/supreme-court/committees/supreme-court-boards/elder-law-task-force>.

² See Recommendation 36, *Elder Law Task Force Report*, page 236.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 100. RULES AND STANDARDS WITH RESPECT TO OFFICES OF MAGISTERIAL DISTRICT JUDGES

Rule 112. Availability and Temporary Assignments of Magisterial District Judges.

* * * * *

Official Note: This rule was amended in 2007 to further provide for availability and temporary assignment of magisterial district judges in civil and possessory actions similar to that provided for in criminal matters. See Pa.R.Crim.P. 117. Nothing in this rule is intended to affect or conflict with the temporary assignment or coverage requirements for criminal matters as specified in the Rules of Criminal Procedure. Unlike the criminal coverage rules, paragraph (A) of this rule is intended to provide for availability only during regular business hours. None of the matters contemplated under paragraph (A) would require after-hours coverage.

This rule is not intended to affect the availability requirements for emergency relief under the Protection From Abuse Act or 42 Pa.C.S. §§ 62A01—62A20. See Pa.R.C.P.M.D.J. Nos. 1201—1211. In addition, the court of common pleas of each judicial district is responsible to ensure that a judge or magisterial district judge “is available on a 24-hour-a-day, 365-day-a-year basis to accept and decide on petitions for an emergency court order under” the Older Adult Protective Services Act. 35 P. S. § 10225.307. Actions commenced under the Older Adult Protective Services Act are governed by statute and local procedures, not by these rules.

* * * * *

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

Rule 206. Costs; Proceedings In Forma Pauperis.

* * * * *

D. This rule shall apply to all civil actions and proceedings except actions pursuant to the Protection from Abuse Act or 42 Pa.C.S. §§ 62A01—62A20.

Official Note: “Execution” costs include those for executing an order for possession. The items constituting taxable costs in appeal or certiorari proceedings will be governed by law or general rule applicable in the court of common pleas.

Under subdivision B, “personal service . . . costs” refers only to personal service since mail costs are to be borne by the plaintiff in all cases in accordance with Section 1725.1 of the Judicial Code, 42 Pa.C.S. § 1725.1.

This rule does not provide for the assessment of filing costs against an unsuccessful plaintiff who has been permitted to proceed in forma pauperis and who remains indigent. See Brady v. Ford, 451 Pa. Super. 363, 679 A.2d 837 (1996).

For special provisions governing actions pursuant to the Protection From Abuse Act, see Sections 6106(b) and (c) of the Domestic Relations Code, 23 Pa.C.S. §§ 6106(b) and (c). For special provisions governing actions seeking relief from sexual violence or intimidation, see 42 Pa.C.S. §§ 62A01—62A20.

E. Proceedings in Forma Pauperis

* * * * *

Rule 215. Advanced Communication Technology.

Magisterial district judges may authorize the use of advanced communication technology during any civil proceeding or action governed by the Rules of Civil Procedure for Magisterial District Judges.

Official Note: This rule was adopted in 2008 to specify that magisterial district judges may use advanced communication technology in their courtrooms during adversarial proceedings. In an ex parte proceeding, such as an action pursuant to the Protection From Abuse Act, 23 Pa.C.S. [§ 6101 et seq.] §§ 6101—6122, or 42 Pa.C.S. §§ 62A01—62A20 (providing for protection of victims of sexual violence or intimidation), magisterial district judges also may permit the use of advanced communication technology. Limited technology available in some magisterial district courts may preclude the use of certain advanced communication technology options. Compare Pa.R.Crim.P. 119.

CHAPTER 1200. EMERGENCY RELIEF [UNDER THE PROTECTION FROM ABUSE ACT] FROM ABUSE, SEXUAL VIOLENCE OR INTIMIDATION

Rule 1201. Applicability.

The rules in this chapter apply to the exercise by a hearing officer of jurisdiction under Section 6110 of the Protection From Abuse Act, 23 Pa.C.S. § 6110, and Section 62A09 of Title 42, 42 Pa.C.S. § 62A09, to grant emergency relief from abuse, sexual violence or intimidation.

Official Note: See the Protection From Abuse Act set forth in the Domestic Relations Code, 23 Pa.C.S. §§ 6101—[6118] 6122, and 42 Pa.C.S. §§ 62A01—62A20.

The court of common pleas of each judicial district is responsible to ensure that a judge or magisterial district judge “is available on a 24-hour-a-day, 365-day-a-year basis to accept and decide on petitions for an emergency court order under” the Older Adult Protective Services Act. 35 P. S. § 10225.307. Actions commenced under the Older Adult Protective Services Act are governed by statute and local procedures, not by these rules.

This chapter was amended in 2015 to provide procedural rules for protective orders sought for victims of sexual violence or intimidation. See 42 Pa.C.S. §§ 62A01—62A20.

Rule 1202. Definitions.

As used in this chapter:

[“abuse” “adult” and “family or household members” shall have the meanings given to those words in Section 6102 of the Protection From Abuse Act, 23 Pa.C.S. § 6102;]

(1) “abuse” means the occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

(a) attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest with or without a deadly weapon.

(b) placing another in reasonable fear of imminent serious bodily injury.

(c) the infliction of false imprisonment pursuant to 18 Pa.C.S. § 2903 (relating to false imprisonment).

(d) physically or sexually abusing minor children, including such terms as defined in Chapter 63 of the Domestic Relations Code (relating to child protective services).

(e) knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury. This definition applies only to proceedings commenced under the Domestic Relations Code and is inapplicable to any criminal prosecutions commenced under Title 18 (relating to crimes and offenses).

(2) “adult” means an individual who is 18 years of age or older.

(3) “court” means:

(a) the court of common pleas of the judicial district in which the office of the hearing officer taking action under these rules is located[;] in actions brought under the Protection from Abuse Act, 23 Pa.C.S. §§ 6101–6122, or

(b) the court or magisterial district judge having jurisdiction over the matter in actions brought pursuant to Section 62A09 of Title 42, 42 Pa.C.S. § 62A09 (providing for protection of victims of sexual violence or intimidation).

(4) “family or household members” means spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

(5) “hearing officer” means a magisterial district judge, judge of the Philadelphia Municipal Court, [bail commissioner] arraignment court magistrate appointed under 42 Pa.C.S. § 1123 (relating to jurisdiction and venue), master appointed under 42 Pa.C.S. § 1126 (relating to masters), and master for emergency relief appointed under 23 Pa.C.S. § 6110(e) or 42 Pa.C.S. § 62A09(e) (relating to master for emergency relief).

(6) “intimidation” means conduct constituting a crime under either of the following provisions between persons who are not family or household members:

(a) 18 Pa.C.S. § 2709(a)(4), (5), (6) or (7) (relating to harassment) where the conduct is committed by a person 18 years of age or older against a person under 18 years of age.

(b) 18 Pa.C.S. § 2709.1 (relating to stalking) where the conduct is committed by a person 18 years of age or older against a person under 18 years of age.

(7) “minor” means an individual who is not an adult.

(8) “sexual violence” means conduct constituting a crime under any of the following provisions between persons who are not family or household members:

(a) 18 Pa.C.S. Ch. 31 (relating to sexual offenses), except 18 Pa.C.S. §§ 3129 (relating to sexual intercourse with animal) and 3130 (relating to conduct relating to sex offenders).

(b) 18 Pa.C.S. § 4304 (relating to endangering welfare of children) if the offense involved sexual contact with the victim.

(c) 18 Pa.C.S. § 6301(a)(1)(ii) (relating to corruption of minors).

(d) 18 Pa.C.S. § 6312(b) (relating to sexual abuse of children).

(e) 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(f) 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(9) “victim” means a person who is a victim of abuse, sexual violence or intimidation.

Official Note: These definitions are largely derived from 23 Pa.C.S. § 6102 and 42 Pa.C.S. § 62A03.

Rule 1203. Limitation on jurisdiction.

The hearing officer may grant relief under these rules only when the court is unavailable to do so pursuant to the provisions of:

(1) Section 6110 of the Protection From Abuse Act, 23 Pa.C.S. § 6110, [or]

(2) 42 Pa.C.S. § 62A09 (providing for protection of victims of sexual violence or intimidation), or

(3) local rule of court.

Official Note: The limitation in this rule is taken from Section 6110 of the Protection From Abuse Act, 23 Pa.C.S. § 6110, and 42 Pa.C.S. § 62A09.

This rule recognizes and reaffirms the existing practice in many counties. The availability of each court to grant necessary emergency relief [under the Act] will vary greatly, both during the business and non-business day; therefore, it was deemed desirable to permit each court to promulgate such rules as would best serve its specific needs in providing for efficient implementation of [the emergency relief provisions of the Act] emergency relief measures.

Rule 1204. Venue.

A. Except as provided in subdivision B, a proceeding for emergency relief may be brought in a magisterial district within the county in which

(1) the plaintiff resides, either temporarily or permanently, or

(2) the abuse, sexual violence or intimidation occurred.

B. If the relief sought includes possession of the residence or household to the exclusion of the defendant, the action may be brought only in a magisterial district within the county in which the residence or household is located.

Official Note: This rule is consistent with Pa.R.C.P. No. 1901.1 and provides the necessary flexibility to a plaintiff who may have to flee the county of permanent residence to escape further abuse. This rule is intended to provide maximum flexibility to a plaintiff to use a convenient forum to seek an emergency protective order. However, where practicable, plaintiffs should give preference to filing in the magisterial district in which the

plaintiff resides, either temporarily or permanently, or in the magisterial district in which the abuse occurred. A proceeding is considered to have been brought in a magisterial district even if it is before a hearing officer serving temporarily in that district, or before a hearing officer who has been invested by local rule with temporary county-wide jurisdiction.

Subdivision B of this rule only applies to actions brought pursuant to Section 6110 of the Protection From Abuse Act, 23 Pa.C.S. § 6110.

Rule 1205. Persons who may seek emergency relief.

An adult or an emancipated minor may seek emergency relief from abuse, **sexual violence or intimidation** for himself or herself. Also, any parent, adult household member or guardian ad litem may seek emergency relief from abuse, **sexual violence or intimidation** on behalf of minor children. In addition, a guardian of the person of an incapacitated person as defined in 20 Pa.C.S. § 5501 may seek emergency relief on behalf of the incapacitated person.

Official Note: This rule is derived from Section 6106 of the Protection From Abuse Act, 23 Pa.C.S. § 6106, as well as 42 Pa.C.S. § 62A05.

Rule 1206. Commencement of proceedings.

A. A proceeding for emergency relief from abuse, **sexual violence or intimidation** shall be commenced by the filing of a petition by the plaintiff with the hearing officer on a form which shall be prescribed by the State Court Administrator. The petition shall be signed by the plaintiff and shall set forth the names and addresses of the plaintiff and the defendant and the names, addresses and ages of any person on whose behalf the plaintiff is seeking relief. The plaintiff shall also allege in the petition, in general terms, the cause for seeking **emergency relief from abuse, sexual violence or intimidation**.

B. Upon issuance of an emergency order, the hearing officer shall provide the plaintiff with instructions regarding the commencement of proceedings in the court of common pleas and regarding the procedures for initiating a contempt charge should the defendant violate the emergency order. The hearing officer shall also advise the plaintiff of the existence of **rape crisis centers in the county or in nearby counties in the case of sexual violence, as well as** programs for victims of domestic or sexual violence in the county or in nearby counties and inform the plaintiff of the availability of legal assistance without cost if the plaintiff is unable to pay therefor.

C. The petition shall be filed and service shall be made without prepayment of costs.

Official Note: [It was thought desirable to require the petition to be on a simple, prescribed form since this is an emergency proceeding and the plaintiff is apt to be in an excited state at the time of the filing.] Subdivision B is added to assure compliance with the requirement of Section 6110(d) of the Protection From Abuse Act, 23 Pa.C.S. § 6110(d), as well as 42 Pa.C.S. § 62A09(d). Practice varies among the judicial districts as to what procedures the plaintiff must follow to continue in effect a protection order in the court of common pleas upon the certification of an emergency protection order to the court of common pleas. The hearing officer should provide clear instructions to the plaintiff as to what must be done to continue in effect the protection order in the court of common pleas. See Rule 1210 and Note, and Rule 1211 and Note. Subdivision C is

derived from Section 6106(b) of the Act, 23 Pa.C.S. § 6106(b), as well as 42 Pa.C.S. § 62A05(b), and reflects the practice when a temporary order is issued at the common pleas level.

Rule 1207. Hearing.

As soon as possible after the filing of the petition, the hearing officer shall hold an ex parte hearing thereon. The plaintiff may present witnesses at the hearing [, but need not be compelled to disclose the permanent or temporary residence of the plaintiff or minor children]. Neither in the petition nor during a hearing shall the hearing officer require disclosure of the address of a domestic violence program, a rape crisis center, or the plaintiff or victim, as appropriate.

Official Note: [Under Section 6110(a) of the Protection From Abuse Act, 23 Pa.C.S. § 6110(a), the hearing is ex parte, and under Section 6110(b) of the Act, 23 Pa.C.S. § 6110(b) the emergency orders issued by the hearing officer as a result of the hearing are of short duration. Accordingly, there are no provisions in these rules for notice to the defendant prior to the hearing. The hearing need not be held at the office of the hearing officer. The last phrase was added to insure compliance with Section 6112 of the Act, 23 Pa.C.S. § 6112.] The hearing is ex parte, and the emergency order issued by the hearing officer as a result of the hearing is of short duration. See 23 Pa.C.S. § 6110(a)—(b), 42 Pa.C.S. § 62A09(a)—(b). Accordingly, there are no provisions in these rules for notice to the defendant prior to the hearing. The hearing need not be held at the office of the hearing officer. See Rule 215 (permitting the use of advanced communication technology in any civil action or proceeding governed by the Rules of Civil Procedure for Magisterial District Judges.) The last phrase was added to ensure compliance with Section 6112 of the Act, 23 Pa.C.S. § 6112 and 42 Pa.C.S. § 62A11. Nothing in the last phrase is intended to preclude a magisterial district judge from determining that venue is proper pursuant to Rule 1204.

Rule 1208. Findings and protection orders.

A. If the hearing officer, upon good cause shown, finds it necessary to protect the plaintiff [or], minor children, or victim from abuse, [he] **sexual violence or intimidation, the hearing officer** may grant relief in accordance with Section 6110(a) of the Protection From Abuse Act, 23 Pa.C.S. § 6110(a) or 42 Pa.C.S. § 62A09(a), and make any protection orders necessary to effectuate that relief. Immediate and present danger of abuse, **sexual violence or intimidation** to the plaintiff [or], minor children, or victim shall constitute good cause.

B. The hearing officer shall enter on the petition form [his] the findings and any protection orders made or other action taken [by him].

Official Note: Subdivision A of this rule is derived from Section 6110(a) of the Protection From Abuse Act, 23 Pa.C.S. § 6110(a), which permits the hearing officer to grant limited relief in accordance with [Section] 23 Pa.C.S. § 6108(a)(1), (2) and (6) or (1) and (6) [of the Act] (relating to relief), as well as 42 Pa.C.S. § 62A07(b).

Rule 1209. Service and execution of emergency protection orders.

A. The hearing officer shall provide to the plaintiff a copy of a protection order made under Rule 1208. The hearing officer or, when necessary, the plaintiff shall immediately deliver a service copy of any protection order made under Rule 1208 to a police officer, police department, sheriff or certified constable for service upon the defendant and execution. After making reasonable effort, if the executing officer is unable to serve the protection order upon the defendant in a timely fashion, the executing officer shall leave a service copy of the petition form containing the order with the police department with jurisdiction over the area in which the plaintiff resides for service upon the defendant, and shall advise such police department that the order could not be served.

B. When a protection order is issued under Rule 1208 in accordance with 42 Pa.C.S. § 62A09(a), the hearing officer shall:

(1) **within two business days, serve the order upon the police department, sheriff and district attorney in the jurisdiction where the order was entered, and**

(2) **in the case of a minor victim of sexual violence, serve a copy of the petition and order upon the county agency (as defined by 23 Pa.C.S. § 6303) and the Department of Human Services.**

Official Note: The hearing officer should provide the plaintiff with at least one copy of a protection order, but more than one copy may be needed. For example, the plaintiff may wish to serve the order upon multiple police departments when the plaintiff lives and works in different police jurisdictions, etc. If it is necessary for the plaintiff to deliver the protection order to the executing officer, the hearing officer should make sure that the plaintiff fully understands the process and what must be done to have the order served upon the defendant. The hearing officer should make every effort to have the protection order served by a law enforcement officer in a timely fashion. The Rule requires that if the executing officer is unable to serve the protection order in a timely fashion, the executing officer shall leave a service copy of the order with the police department with jurisdiction over the area in which the plaintiff resides. This was thought advisable so that the local police would have a service copy in case they would be called to the plaintiff's residence should the defendant return there. Due to the emergency nature of these protection orders and the fact that to be meaningful they must be served and executed at night or on a weekend, the hearing officer should have the authority to use police officers as well as sheriffs and certified constables to serve and execute these orders. **Protection orders issued under Rule 1208 in accordance with 42 Pa.C.S. § 62A09 (providing for protection of victims of sexual violence or intimidation) are subject to additional service requirements. See Section 6109(a) of the Protection From Abuse Act, 23 Pa.C.S. § 6109(a), and 42 Pa.C.S. § 62A05(d).**

Service shall be made without prepayment of costs. See Rule 1206(C).

Service of protection orders upon the defendant at the time of execution may not be possible under some circumstances.

Rule 1210. Duration of emergency protection orders.

Protection orders issued under Rule 1208 shall expire at the end of the next business day the court deems itself available.

Official Note: This rule is derived from Section 6110(b) of the Protection From Abuse Act, 23 Pa.C.S. § 6110(b), as well as 42 Pa.C.S. § 62A09(b). Practice varies among the judicial districts as to what procedures the plaintiff must follow to continue in effect a protection order in the court of common pleas upon the certification of an emergency protection order to the court of common pleas. The hearing officer should provide clear instructions to the plaintiff as to what must be done to continue in effect the protection order in the court of common pleas. See Rule 1206 and Note, and Rule 1211 and Note.

Rule 1211. Certification to court of common pleas.

A. Any protection order issued under Rule 1208, together with any documentation in support thereof, shall immediately be certified to the court of common pleas by the hearing officer.

B. Certification under subdivision A of this Rule shall be accomplished by sending to the prothonotary of the court by first class mail or messenger a certified copy of the petition form containing the order, with any supporting documentation attached.

Official Note: Certification under subdivision A of this rule is required by Section 6110(c) of the Protection From Abuse Act, 23 Pa.C.S. § 6110(c), as well as 42 Pa.C.S. § 62A09(c). This rule is also consistent with Pa.R.C.P. [No.] Nos. 1901.3(b) and 1953(b), which [permits] permit commencement of an action by filing with the prothonotary a certified copy of an emergency protection order. However, practice varies among the judicial districts as to how the protection order is continued in effect after it is certified to the court of common pleas. For example, some judicial districts may require that the plaintiff appear in person to continue the action in the court of common pleas. Others may automatically commence an action in the court of common pleas upon receipt of a certified copy of the emergency order from the hearing officer. See Rule 1206 and Note, and Rule 1210 and Note.

Depending on local practice, the plaintiff or the plaintiff's representative may act as a messenger under subdivision B of this rule.

FINAL REPORT¹**Recommendation 2-2015, Minor Court Rules Committee****Amendment of Rules 206, 1201—1209, and of the Official Notes to Rules 112, 215, 1210—1211 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges****Protective Orders for Victims of Sexual Violence or Intimidation****I. Introduction**

The Minor Court Rules Committee ("Committee") recommended amendments to Rules 206, 1201—1209, and to the Official Notes to Rules 112, 215, 1210—1211 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges ("Rules"). The amendments establish pro-

¹ The Committee's Final Report should not be confused with the Official Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Official Notes or the contents of the explanatory Final Reports.

cedures for protective orders sought for victims of sexual violence or intimidation, as provided for in recent legislation.

II. Background and Discussion

The Committee learned of enacted legislation that permits a victim of sexual violence or intimidation to petition a court for protection from a defendant. *See* 42 Pa.C.S. §§ 62A01—62A20 (“Act”). The Act provides for emergency protective orders for victims of sexual violence and intimidation, in much the same manner as existing emergency protection from abuse orders. The new law takes effect July 1, 2015.

After comparing the provisions of the Act with the Protection from Abuse Act, 23 Pa.C.S. §§ 6101—6122, as well as current Rules 1201—1211, the Committee drafted and recommended amendments to the rules to incorporate the new protective order provisions within existing Rules 1201—1211.

III. Rule Changes

The Committee recommended amending Rules 1201—1211 and the corresponding Official Notes to add references to the new emergency protective orders, add required definitions and statutory references, and make the rules gender neutral. The Committee also recommended deleting the first sentence of the Official Note to Rule 1206, indicating that the “plaintiff is apt to be in an excited state,” as the Committee did not find the observation to be helpful. The Committee also recommended revising the last clause of Rule 1207 to more closely mirror the statutory requirements for nondisclosure of the location of a victim, and adding a sentence to the Official Note to Rule 1207 indicating that nothing in the rule is intended to preclude a magisterial district judge from making a proper determination regarding venue. The Committee also recommended amending Rule 1209 to include service provisions specific to the new emergency protective orders.

Additionally, the Committee recommended updating and adding cross-references to Rule 206, as well as the Official Note to Rule 112. The Committee also recommended adding cross-references to the Official Notes to Rules 215 and 1207 to clarify that the use of advanced communication technology is permitted in hearings on petitions for protective orders.

[Pa.B. Doc. No. 15-1312. Filed for public inspection July 17, 2015, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BERKS COUNTY

Amendments to Local Rules; No. 15-217 Prothonotary; No. CP-06-AD-000023-2015 Clerk of Courts

Order

And Now, this 19th day of June, 2015, the following amendments to Berks County Rules of Civil Procedure 211; 211.1; 211.2; 211.5; 211.6; and 4001; and amendment to Berks County Rule of Judicial Administration 1901 are hereby adopted and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*, in accordance with Pa.R.C.P. No. 239(d) and amendments to Berks

County Rules of Civil Procedure 1028(c); 1034(a); and 1035.2(a) are hereby adopted and shall become effective upon publication on the Pennsylvania Judiciary’s Web Application Portal in accordance with Pa.R.C.P. No. 239.8(d).

(New language is in bold, and removed language is shown by bold and brackets.)

The District Court Administrator is *Ordered* and *Directed* to:

1. File one (1) certified copy of this Order, including the newly adopted rules, with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies of this Order, including the newly adopted rules, and one (1) disk copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy of this Order, including the newly adopted rules, with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania.
4. File one (1) certified copy of this Order, including the newly adopted rules, with the Berks County Law Library.
5. Keep continuously available for public inspection and copying, one (1) copy of this Order, including the newly adopted rules, in the Office of the Prothonotary of Berks County.
6. Keep continuously available for public inspection and copying, one (1) copy of this Order, including the newly adopted rules, in the Office of the Clerk of Courts of Berks County.

HONORABLE PAUL M. YATRON,
President Judge

RULES OF JUDICIAL ADMINISTRATION

Rule 1901. Termination of Inactive Cases.

[See Pa.R.C.P 230.2.]

(a) This Local Rule shall apply to all civil and family cases regardless of the nature or extent of the relief sought.

(b) The Prothonotary may initiate proceedings to terminate a case in which there has been no activity of record for two years or more by serving a notice of proposed dismissal of court case.

(c) The Prothonotary shall serve the notice on counsel of record and on the parties if not represented, at least sixty days prior to the date of the proposed termination. The notice shall contain the date of the proposed termination and the procedure to avoid termination. The notice shall be served by mail pursuant to Rule 440 or by electronic transmission pursuant to Rule 205.4(g). If the mailed notice is returned, the notice shall be served by advertising it in the *Reading Eagle* newspaper.

(d) The notice required by subdivision (c) shall be in substantially the following form:

(Caption)

Notice of Proposed Termination of Court Case

The Court intends to terminate this case without further notice because the docket shows no activity in the case for at least two years. You may stop the court from terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed should be filed with Prothonotary of the Court at Berks County Prothonotary,

2nd Floor Courthouse, 633 Court Street, Reading, PA 19601 on or before _____.

IF YOU FAIL TO FILE THE REQUIRED STATEMENT OF INTENTION TO PROCEED, THE CASE WILL BE TERMINATED.

BY THE COURT:

Date of this Notice Prothonotary

(e) The Statement of Intention to Proceed shall be in the following form:

(Caption)

Statement of Intention to Proceed

TO THE COURT:

_____ intends to proceed with the above captioned matter.

Date: _____ Attorney for _____

(f) If no statement of intention to proceed has been filed in the required time period, the Prothonotary shall mark the matter as terminated with prejudice for failure to prosecute.

(g) If an action has been terminated pursuant to this rule, an aggrieved party may petition the court to reinstate the action. All matters so terminated may not be reinstated except with leave of Court, for cause shown.

(h) Following the filing of a Statement of Intention to Proceed, the Court shall schedule a hearing in the subject case to show cause why the case should not be terminated for inactivity.

**RULES OF CIVIL PROCEDURE
ARGUMENT COURT**

Rule 211. Schedule for Arguments. Matters for Panel. Matters for Single Judge.

Civil Argument Court shall be held on the days as scheduled in the Court calendar for that year, subject to change by court order fixing special argument dates. **As used throughout these rules, including B.R.C.P. 211.1 through 211.7 inclusive, and B.R.C.P. 1028(c), 1034(a), and 1035.2(a), the term "argument court date" shall mean one of the scheduled Civil Argument Court dates listed on the Court calendar, which calendar can be found on-line at www.countyofberks.com/courts.**

(a) Panel list civil matters shall be heard by a panel of judges (consisting of two judges) or by the court en banc.

(b) All other civil arguments shall be heard by a single judge and shall consist of all other matters not specifically designated as Panel List Matters under subsection (a).

Rule 211.1. Ordered or Placed on Argument List.

Preliminary objections shall be ordered for argument court as required by B.R.C.P. 1028(c). All other cases may be ordered for argument court (a) by the party having the burden at argument by filing a praecipe and required documents with the prothonotary on or before the twenty-fourth (24th) day preceding such argument court date; (b) by the party not having the burden at argument by filing a praecipe and required documents with the prothonotary on or before the forty-fourth (44th) day preceding such argument court date; or (c) by special order of the court at any time.

No case shall be ordered or placed on any argument list unless at the day of its ordering the matter is at issue and notes of testimony directed to be filed have been transcribed and filed, unless (a) by agreement of **the parties or their** counsel such transcription is dispensed with and an adequate statement of the material facts has been filed in lieu thereof, or (b) the case is specially ordered for argument by the court.

Rule 211.2. Filing of Praecipe and Briefs.

(a) A party having the burden at argument in a civil case may file a praecipe with the prothonotary ordering that the case be listed for a particular argument court date, except that the date for argument on preliminary objections shall be as provided in B.R.C.P. 1028(c), and shall file simultaneously with the prothonotary the required copies of his brief of argument and a proof of service that copies of such praecipe and brief of argument have been served upon all other parties in the case.

(b) A party not having the burden at argument in a civil case may file a praecipe with the prothonotary ordering that the case be listed for a particular argument court date and shall file simultaneously with the prothonotary a proof of service that copies of such praecipe have been served upon all other parties in the case. The party not having the burden shall not be required to file a brief of argument at the time of filing such praecipe.

(c) A party filing a praecipe for argument shall set forth in writing on such praecipe:

(1) the particular date the case is ordered to be listed for argument, **which date shall be the next argument court date that is at least twenty-four (24) days from the date of filing (if filed by the party having the burden at argument), the next argument court date that is at least forty-four (44) days from the date of filing (if filed by the party not having the burden at argument), or any later argument court date that the party filing the praecipe certifies is agreeable to all parties and the assigned judge.**

(2) the matter to be argued

(3) the party who has the burden at argument

(4) whether it should be argued before a panel of judges under B.R.C.P. 211(a) or a single judge under B.R.C.P. 211(b)

(5) the name of the judge assigned to the case

(d) In those cases where the party having the burden at argument has filed a praecipe for argument and accompanying documents in compliance with the requirements of subsection (a), each opposing party shall file with the prothonotary on or before the Tuesday (or Monday if Tuesday is a holiday) prior to the argument court date the required copies of his brief of argument accompanied by a proof of service that copies of brief of argument have been served upon all other parties in the case. **When the argument date is by agreement of the parties and the assigned judge, unless the assigned judge orders otherwise, each opposing party shall file its argument brief no later than seven (7) days prior to the agreed upon argument date.**

(e) In those cases where a party not having the burden at argument has filed a praecipe for argument and proof of service in compliance with the requirements of subsection (b), the party having the burden shall file with the prothonotary on or before the twenty-fourth (24th) day preceding the argument court date the required copies of

his brief of argument accompanied by a proof of service that copies of briefs of argument have been served upon all other parties in the case. Each opposing party thereafter shall file with the prothonotary on or before the Tuesday (or Monday if Tuesday is a holiday) before the argument court date the required copies of his brief of argument accompanied by proof of service that copies of briefs of argument have been served upon all other parties in the case. **When the argument date is by agreement of the parties and the assigned judge, unless the assigned judge orders otherwise, the party having the burden shall file its argument brief no later than twenty-four (24) days prior to the agreed upon argument date, and each opposing party shall file its argument brief no later than seven (7) days prior to the agreed upon argument date.**

(f) In those cases where the court specially orders a case for argument, the court shall fix the briefing schedule as a part of its order listing the case for argument, or by separate order.

(g) The required copies of briefs of argument to be filed shall be two (2) for cases under B.R.C.P. 211(a) Panel List and one (1) for cases under B.R.C.P. 211(b) Single Judge List.

(h) Where there has not been strict compliance with these rules as to time for filing, content or praecipe and proof of service of praecipe and/or brief of argument, as applicable, the prothonotary shall still accept the praecipe or brief of argument for filing, **[but]** and Court Administration shall **[not]** list the case for oral argument **[until there has been compliance with these rules. If compliance is made on or before the Tuesday (or Monday if Tuesday is a holiday) prior to]** on the requested argument date^[, court administration will list the case for the requested argument date. If compliance is not made by the Tuesday (or Monday if Tuesday is a holiday) prior to the requested argument date, the matter must be relisted by praecipe for the next applicable argument date, along with proof of service of said praecipe]. The non-compliant party, however, shall be prohibited from participating in oral argument before the court unless the non-compliant party timely cures any defects and there is no prejudice to any opposing party, or the court, in its discretion, allows the non-compliant party to participate after good cause is shown.

Rule 211.5. Extension of Time for Filing of Brief. Continuance of Argument. Disposition of Matters Upon Stipulation. Failure to File Brief or Appear at Argument.

(a) If a party is unable to file and serve his brief of argument as required by these rules, or is unable to appear and argue the case when scheduled, such party shall make timely application to the court for an extension of time in which to file and serve his brief and/or for a continuance, and upon good cause shown the court may grant such additional time and/or continue the argument as may be proper under the circumstances.

(1) There can be no extension of time for filing and serving of briefs of argument by agreement of the parties, except that if the praecipe for argument is filed by a party not having the burden, a reasonable extension of time for filing and serving of briefs by the party having the burden will be allowed without cause upon written

stipulation of all parties and order entered thereon by the court and filed at least twenty-four (24) days prior to the argument court date. Except for argument on preliminary objections, a continuance without cause will be allowed one time on any other matter listed for argument, upon written stipulation of all parties and order entered thereon by the court and filed no later than on the Tuesday (or Monday if Tuesday is a holiday) prior to the argument court date.

(2) Unless otherwise ordered by the court because of emergency, any application for extension of time for cause for filing and serving of briefs must be made to the court on or before the due date for filing, and any application for continuance of argument must be made to the court on or before the Tuesday (or Monday if Tuesday is a holiday) prior to the scheduled argument date. A party making either such application must give written notice to all other parties in accordance with B.R.C.P. 211.3(a) of the intended date, time and nature of the application at least three (3) days prior to making such application, except that notice may be waived by such other party who appears before the court at the time such application is made. If the other party does not appear, the party making application shall file proof of service of notice in accordance with B.R.C.P. 211.3(b) at or before the time of making such application.

(3) Disposition of matters in issue for argument may be made by written stipulation of all parties if approved by order entered thereon by the court prior to or at the time of scheduled argument.

(4) The court may order sua sponte that the time for filing of an argument brief be extended, that an argument be continued or that a case be stricken from the argument list.

[(b) If a party fails to file and serve his brief of argument as required by these rules without obtaining a court approved extension of time, the prothonotary shall forthwith deliver the file of the case to the judge assigned to the case, whereupon the judge may consider the position of the party so failing to file and serve his brief as abandoned and, without further notice, order the matter granted or dismissed with prejudice, depending on which party has failed to comply, or act upon the matter in such manner as the court deems appropriate, including the imposition of sanctions for failure to comply with these rules.

(c)] (b) If a party fails to appear and argue his case at the time scheduled, the court may hear argument of one party nevertheless, may consider the position of the party so failing to appear and argue as abandoned and may, without further notice, order the matter granted or dismissed with prejudice, depending on which party has failed to appear, or act upon the matter in such manner as the court deems appropriate, including the imposition of sanctions for failure to comply with these rules.

Rule 211.6. Assignment of Cases for Argument.

(a) At the end of the Tuesday (or Monday if Tuesday is a holiday) preceding the next scheduled argument court date, Court Administration shall prepare the list of all those cases **[ordered for argument and for which there has been compliance with these rules and which are ready]** praeciped for argument, noting the caption, nature of the matter to be argued, names of counsel or parties without counsel, and name of the judge assigned to the case, whether argument is before a panel of judges or a single judge.

(b) Court Administration shall prepare a schedule of assignment of cases designating courtrooms, judges and times that arguments will be heard at argument court, and shall post such schedule by noon of the Thursday (or Wednesday if Thursday is a holiday) preceding argument court in the prothonotary's office and online at www.countyofberks.com/courts, and shall post such schedule on argument court day in the first floor lobby at the Courthouse and County Services Center.

(c) Upon such posting in the prothonotary's office the prothonotary shall **[deliver copies of briefs of argument to]** notify the judge or judges assigned to hear arguments in the respective cases. On argument court day counsel and/or parties shall report directly to the assigned courtroom prior to the time fixed for oral argument for their respective cases.

Rule 1028(c). Preliminary Objections.

(a) A party filing preliminary objections which are not endorsed with a notice to plead, as they involve issues raised under Pa.R.C.P. No.s 1028(a)(2), (3) or (4), shall file simultaneously with the Prothonotary an original and one copy of the preliminary objections, a praecipe for argument, an argument brief and a proposed order granting the relief requested, accompanied by a proof of service of copies of those documents upon counsel for all other parties and any unrepresented parties by first class mail. The praecipe shall order that the **[case] preliminary objections** be listed for argument on **[an] the next argument court date [next following the expiration of] that is at least** twenty-four (24) days from the date of filing, **or any later date that the party filing the praecipe certifies is agreeable to all parties and the assigned judge.** Said argument court date must be in accordance with the **[court] Civil Argument Court calendar [. The court calendar]**, which can be found online at www.countyofberks.com/courts.

(b) A party filing preliminary objections which are endorsed with a notice to plead, as they involve issues raised under Pa.R.C.P. No.s 1028(a)(1), (5), (6), (7) or (8), shall file with the Prothonotary an original and one copy of the preliminary objections, accompanied by a proof of service of copies of the preliminary objections and the completed form of order upon counsel for all other parties and any unrepresented parties by first class mail.

(1) The form of order referred to in paragraph (2) above shall be substantially in the following form, PROVIDED that the bracketed, italicized language is explanatory only and should not appear in the completed form of order served with the preliminary objections:

ORDER

AND NOW, this ____ day of _____, _____, preliminary objections endorsed with a notice to plead having been filed in this matter and served on _____, *[date which appears on the proof of service]* it is hereby ordered that:

(1) Any party wishing to oppose the preliminary objections shall file with the Prothonotary an original and one copy of the answer to the preliminary objections and proof that the answer to the preliminary objections has been served by first class mail upon counsel for all other parties and any unrepresented parties no later than _____. *[In accordance with Pa.R.C.P. 239.5 and 1026(a), which require any party opposing preliminary objections endorsed with a notice to plead to respond thereto within twenty (20) days of service of the prelimi-*

nary objections, the party filing the preliminary objections must here insert a date twenty (20) days after the date listed on the proof of service filed with the preliminary objections, unless counsel and any unrepresented parties stipulate to a different time.]

(2) Depositions and/or any other discovery required for determination of the preliminary objections shall be completed by _____. *[The date inserted shall be no longer than sixty (60) days after the date listed on the proof of service accompanying the preliminary objections.]*

(3) An original and one copy of a brief of argument and proposed order granting the relief requested, along with proof that such documents were served by first class mail upon counsel for all other parties and any unrepresented parties, shall be filed with the Prothonotary by _____ *[the party which filed the preliminary objections]* on or before _____ *[the date inserted shall be no longer than twenty (20) days after the date on which discovery ends].*

(4) Any party opposing the preliminary objections shall file with the Prothonotary an original and one copy of a brief of argument, proposed order and proof that such documents were served by first class mail upon counsel for all other parties and any unrepresented parties, no **[longer] later** than twenty (20) days after the date listed on the proof of service accompanying the brief of the party which filed the preliminary objections.

(5) Argument on the preliminary objections shall be held in the assigned courtroom of the Berks County Courthouse/Services Center on **[an] the next** argument court date **[next following the expiration of] that is at least** twenty-four (24) days from the date of **[such]** filing, **or any later date that the party filing the praecipe certifies is agreeable to all parties and the assigned judge.**

(6) The party which filed the preliminary objections shall serve notice of the entry of this order, along with copies of the signed order bearing the entry date, upon all counsel and any unrepresented parties no later than two (2) business days after receiving a copy of the order.

BY THE COURT:

_____ J.

(2) Following service of copies of the preliminary objections and the above form of order, all counsel and any unrepresented parties should confer and agree upon the dates to be included in the order prior to its submission to the Court for consideration and entry.

(3) The party filing the preliminary objections shall file the original of the completed form of order with the Prothonotary no later than twenty (20) days following service of copies of the preliminary objections and accompanying documents upon counsel for all other parties and any unrepresented parties, whereupon the Prothonotary shall deliver the file of the case to the Court. Nothing in this rule shall preclude the Court from changing the dates set forth in the above-referenced form of order, whether or not such dates were set by agreement of the parties.

(c) If the party filing the preliminary objections fails to simultaneously file any of the additional documents required by paragraphs (1) and (2) above, the Prothonotary shall immediately **[deliver the file of the case to]** notify the Court, whereupon the Court may, **[without further notice]** unless all defects are corrected

within five (5) business days of receipt of the file, overrule the preliminary objections [or direct that no further action shall be taken until those documents are filed].

(d) If an amended pleading is filed in response to preliminary objections, the preliminary objections shall be deemed moot, along with all requirements of this rule relating to discovery and responding to such preliminary objections. Where an argument date has been set, the Prothonotary and Court Administration, Court Information Management Division, shall strike the preliminary objections from the argument list, if any of the following conditions are met:

(1) The amended pleading is filed within twenty (20) days following the date of service of copies of the preliminary objections and accompanying documents as set forth in Pa.R.C.P. No. 1028(c)(1);

(2) The amended pleading is accompanied by or follows the filing of a written stipulation of counsel waiving the time limitation set forth in Pa.R.C.P. No. 1028(c)(1) for the filing of the amended pleading; or

(3) The amended pleading is accompanied by or follows the filing of a court order permitting the amended pleading to be filed notwithstanding the time limitation set forth in Pa.R.C.P. No. 1028(c)(1).

(e) If no amended pleading is filed in accordance with paragraph (4) above, any party opposing preliminary objections which are not endorsed with a notice to plead, as they involve issues raised under Pa.R.C.P. No.s 1028(a)(2), (3) or (4), shall, on or before the Tuesday (or Monday, if Tuesday is a holiday) before the **[next]** argument court date, file an argument brief in response to the preliminary objections, accompanied by a proposed order and proof of service of copies of the argument brief and proposed order upon counsel for all other parties and any unrepresented parties by first class mail. **When the argument date is by agreement of the parties and the assigned judge, unless the assigned judge orders otherwise, the non-moving party shall file its argument brief no later than seven (7) days prior to the agreed upon argument date.**

(f) If any party to whose pleading preliminary objections have been filed fails to file either an amended pleading or a response to the preliminary objections, the Prothonotary shall deliver the file of the case to the Court, whereupon the Court may deem the preliminary objections to have been admitted and, without further notice, either sustain the preliminary objections; hear oral argument and rule upon the preliminary objections; rule upon the preliminary objections without oral argument; or, if an issue of fact is raised, direct that the matter be continued for no more than sixty (60) days for the parties to produce sufficient evidence for the Court to consider in making its ruling.

(g) If preliminary objections are filed which involve issues raised under Pa.R.C.P. No.s 1028(a)(1), (5), (6), (7), or (8) but are not endorsed with a notice to plead and no response thereto is filed, the Court shall deem the preliminary objections to be denied in accordance with Pa.R.C.P. No. 1029(d), and may, without further notice, overrule the preliminary objections, although it may permit the preliminary objections to be re-filed, endorsed with the required notice to plead, no later than twenty (20) days after the order is entered. In the alternative, the Court may hear oral argument from the party that filed the preliminary objections and any other party

wishing to be heard, or, if an issue of fact is raised, may direct that the matter be continued for no more than sixty (60) days in order to permit the party that filed the preliminary objections, and any other party wishing to participate, the opportunity to produce sufficient evidence for the Court to consider in ruling upon the preliminary objections.

(h) If preliminary objections are in the nature of preliminary objections to preliminary objections, the filing, argument and disposition of the second set of preliminary objections shall proceed in accordance with paragraphs (1) through (7) above and oral argument on the first set of preliminary objections shall be continued to the date set for argument on the second set of preliminary objections. If the Court overrules the second set of preliminary objections or does not make a decision on the second set of preliminary objections, the Court may proceed with the consideration and disposition of the first set of preliminary objections in accordance with paragraphs (5) through (7) above immediately after the conclusion of argument on the second set of preliminary objections, or may schedule oral argument on the first set of preliminary objections for a date and time after it has ruled on the second set of preliminary objections.

(i) The Court shall promptly determine all preliminary objections after the argument date, or, if the matter was continued in accordance with paragraphs (6) or (7) above, may re-list the matter for oral argument, request or permit additional argument briefs from the parties or, if an issue of fact is raised, shall consider the evidence produced by the parties.

(j) At the Court's discretion, the preliminary objections may be determined upon the pleadings, any evidence produced and the argument briefs submitted by the parties, without oral argument. Notice thereof shall be provided by the Court to the parties and/or their counsel by letter or telephone at least three (3) business days prior to the scheduled argument date.

Rule 1034(a). Motion for Judgment on Pleadings.

(1) A party filing a motion for judgment on the pleadings shall file simultaneously with the Prothonotary a praecipe for argument and an argument brief, accompanied by a proof of service of copies of the motion, praecipe and brief of argument upon all other counsel and any unrepresented parties by first class mail, all in accordance with the Berks County Rules of Civil Procedure governing Civil Argument Court. The praecipe shall order that the **[case] motion** be listed for argument on **[an] the next** argument court date **[no earlier than] that is at least twenty-four (24) days** from the date of filing, **or any later date that the party filing the praecipe certifies is agreeable to all parties and the assigned judge. Said argument court date must be in accordance with the Civil Argument Court calendar, which can be found online at www.countyofberks.com/courts.**

(2) If a party filing a motion for judgment on the pleadings fails to simultaneously file such praecipe, argument brief and/or proof of service, the Prothonotary shall **[deliver the file of the case to] immediately notify** the Court, whereupon the Court may, **[without further notice, dismiss the motion without prejudice or direct that no further action shall be taken until those documents are filed] unless all defects are corrected within five (5) business days of the receipt of the file, deny the motion.**

(3) If the party filing a motion for judgment on the pleadings complies with paragraph (1) above, the non-moving party shall, on or before the Tuesday (or Monday, if Tuesday is a holiday) before the argument court date, file an argument brief accompanied by a proof of service of copies of the argument brief upon counsel for all other parties and any unrepresented parties by first class mail. **When the argument date is by agreement of the parties and the assigned judge, unless the assigned judge orders otherwise, the non-moving party shall file its argument brief no later than seven (7) days prior to the agreed upon argument date.**

(4) If the non-moving party does not file an argument brief, the Court shall decide the motion based on the record. In doing so, the Court may in its discretion hear oral argument from the party that filed the motion for judgment on the pleadings, but not from the non-moving party.

Rule 1035.2(a). Motion for Summary Judgment.

(1) A party filing a motion for summary judgment shall file the original motion with the Prothonotary, accompanied by a proof of service of copies of the motion upon counsel for all other parties and any unrepresented parties by first class mail. No praecipe for argument shall be filed at the time that the motion is filed.

(2) The non-moving party shall file a response to the motion for summary judgment no later than thirty (30) days after the date of service of the motion in accordance with Pa.R.C.P. 1035.3(a). If no response is filed within that thirty (30) day period, **upon written notice to the Court by the moving party [shall file a motion under], pursuant to Pa.R.C.P. 1035.3(d), [at which time]** the Court may in its discretion grant the motion for summary judgment.

(3) **[If a] At the end of the 30-day response [is filed] period**, any party may list the motion for summary judgment for oral argument by filing a praecipe for argument, accompanied by a proof of service, with the Prothonotary indicating that copies of the praecipe have been served upon counsel for all other parties and any unrepresented parties by first class mail.

(4) If the moving party files the praecipe for argument, an argument brief shall be filed therewith and the case shall be listed for **[an] the next** argument court date **[no earlier than] that is at least twenty-four (24) days thereafter, or any later date that the party filing the praecipe certifies is agreeable to all parties and the assigned judge**, accompanied by a proof of service of copies of the praecipe and argument brief upon counsel for all other parties and any unrepresented parties by first class mail. **Said argument court date must be in accordance with the Civil Argument Court calendar, which can be found at www.countyofberks.com/courts.** The non-moving party shall thereafter file an argument brief on or before the Tuesday (or Monday, if Tuesday is a holiday) before the argument court date, accompanied by a proof of service of copies of the argument brief upon counsel for all other parties and any unrepresented parties by first class mail. **When the argument date is by agreement of the parties and the assigned judge, unless the assigned judge orders otherwise, the non-moving party shall file its argument brief no later than seven (7) days prior to the agreed upon argument date.**

(5) If the non-moving party files the praecipe for argument with a proof of service, the case shall be listed

for **[an] the next** argument court date **[no earlier than] that is at least forty-four (44) days thereafter, or any later date that the party filing the praecipe certifies is agreeable to all parties and the assigned judge**, and the moving party shall file a brief of argument with the Prothonotary on or before twenty-four (24) days prior to the argument court date, accompanied by a proof of service of copies of the argument brief upon counsel for all other parties and any unrepresented parties by first class mail. The non-moving party shall thereafter file an argument brief with the Prothonotary on or before the Tuesday (or Monday, if Tuesday is a holiday) before the argument court date, accompanied by a proof of service of copies of the argument brief upon counsel for all other parties and any unrepresented parties by first class mail. **When the argument date is by agreement of the parties and the assigned judge, unless the assigned judge orders otherwise, the moving party shall file its argument brief no later than twenty-four (24) days prior to the agreed upon argument date, and the non-moving party shall file its argument brief no later than seven (7) days prior to the agreed upon argument date.**

Rule 4001. Discovery Applications/Discovery Master.

[Except as provided in B.R.C.P. Nos. 4004/4005 and 4012/4019 all discovery applications, along with a proposed order for a Rule to Show Cause shall be filed with the prothonotary. The proposed order shall contain a space wherein the court can enter the rule's return date, time and place. If the party to whom the rule is directed fails to file an Answer to the application at or before the time fixed for the return of the rule, upon application by the moving party, the court may order the rule to be made absolute and grant appropriate relief.

If the party to whom the rule is directed files an answer to the application at or before the time fixed for the return of the rule, the court upon application of the moving party, shall schedule a hearing and/or special argument thereon, with or without briefs. If briefs of argument are required by the court, the court shall fix the briefing schedule.] Legal issues relating to discovery applications and protective orders shall not be scheduled for regular argument court or be subject to the briefing schedule provided for in B.R.C.P. 211.2, unless the court specifically so orders. **In order to facilitate the prompt disposition of discovery matters, discovery disputes shall be first processed before a Master as part of the "Discovery Master Program" and shall follow the following procedure:**

(a) **The Board of Judges shall appoint members of the Bar who shall have practiced civil law in Berks County for a minimum of 10 years to serve as Discovery Masters, for an indeterminate term, without compensation, at the pleasure of the Court.**

(b) **Except as provided in B.R.C.P. 4005(b) and 4012, all discovery applications along with a Rule to Show Cause shall be filed with the Prothonotary. The Rule to Show Cause shall contain a space for the Court to enter a return date, time and place. The moving party shall promptly serve the respondent with a copy of the motion and Rule designating the return date, time and place. The moving party must also comply with B.R.C.P. 208.2(e) by certifying that it has conferred in a good faith effort to resolve the discovery dispute, which certification must specifically describe those efforts.**

(c) If the motion is resolved amicably prior to the return day, the motion shall either be withdrawn or a stipulated order shall be submitted to the Prothonotary for submission to the assigned judge. If no opposition is filed, the Discovery Master shall submit a proposed order granting the motion to the assigned judge. If an opposition is filed, the parties shall appear in a courtroom or arbitration room designated on the Friday of the week in which the rule was made returnable, to argue the matter before the Discovery Master scheduled to hear the matter. In the event the Friday of the week in which the rule was made returnable is a Court holiday, the motion shall be argued before the Discovery Master on the following Friday that is not a Court holiday. Briefs in support of and in opposition to the motion may be filed prior to the day on which the motion is to be argued before the Discovery Master.

(d) After hearing argument and considering the motion and answer, and any briefs filed, the Discovery Master shall submit a written recommendation and proposed order to the assigned judge for entry of an appropriate order.

(e) Any party may file an application under this rule to have the case scheduled to a Discovery Management Conference before a Discovery Master. The Discovery Master may recommend a Discovery Management Order, which establishes the following:

(1) A date for completion of all discovery, except for depositions for use at trial;

(2) A date for plaintiff to submit expert reports and curricula vitae of said experts, or answer expert interrogatories; and

(3) A date for defendant to submit expert reports and curricula vitae of said experts, or answer expert interrogatories.

(f) The parties may, by agreement in writing, extend any dates set forth in the Discovery Management Order.

(g) Upon request of any party, for good cause shown, the Discovery Master may recommend an extension of any dates set forth in the Discovery Management Order.

[Pa.B. Doc. No. 15-1313. Filed for public inspection July 17, 2015, 9:00 a.m.]

DAUPHIN COUNTY

Promulgation of Local Rules; No. 1793 S 1989

Order

And Now, this 29th day of June 2015, Dauphin County Local Rules of Civil Procedure 1915.3(b), 1915.3.1(b), 1915.7(a), 1915.15(c), 1920.43, 1920.51(2) and 1920.51A are amended and Dauphin County Local Rules of Civil Procedure 1920.42 is rescinded as follows:

Rule 1915.3. Custody Actions.

(b) A Custody Action shall include the following attachments:

1. A Seminar Attendance and Custody Conference Scheduling Order in accordance with Local Rule 1915.15(c).

2. Prior Court Involvement Statement in accordance with Local Rule 1931. This form is available at www.dauphincounty.org/government/Court-Departments/Self-Help-Center

3. A Criminal or Abuse History Verification in accordance with Pa.R.C.P. 1915.3-2. This form is available at www.dauphincounty.org/government/Court-Departments/Self-Help-Center.

[4. A Proposed Parenting Plan in accordance with 23 Pa.C.S.A. § 5331. This form is available at www.dauphincounty.org/government/Court-Departments/Self-Help-Center.

5.] 4. Self-Represented Party Entry of Appearance, if not represented by legal counsel, in accordance with Local Rule 1930.8. This form is available at www.dauphincounty.org/government/Court-Departments/Self-Help-Center.

Rule 1915.3.1. Petitions for Modification of a Custody Order.

(b) A Petition for Modification of a Custody Order shall include the following attachments:

1. A Seminar Attendance and Custody Conference Scheduling Order in accordance with Local Rule 1915.15(c).

2. Prior Court Involvement Statement in accordance with Local Rule 1931. This form is available at www.dauphincounty.org/government/Court-Departments/Self-Help-Center.

3. A Criminal or Abuse History Verification in accordance with Pa.R.C.P. 1915.3-2. This form is available at www.dauphincounty.org/government/Court-Departments/Self-Help-Center.

4. Self-Represented Party Entry of Appearance, if not represented by legal counsel, in accordance with Local Rule 1930.8. This form is available at www.dauphincounty.org/government/Court-Departments/Self-Help-Center.

[5. A Proposed Parenting Plan in accordance with 23 Pa.C.S.A. § 5331. This form is available at www.dauphincounty.org/government/Court-Departments/Self-Help-Center.

6.] 5. A copy of the most recent Custody Order, Agreement or Parenting Plan.

1915.7. Agreements and Consent Orders.

(a) Agreements and consent orders filed contemporaneously with the custody complaint:

1. When a custody agreement has been reached prior to the filing of the custody complaint, either party shall file with the Prothonotary the original signed custody agreement simultaneously with the original and one copy of the custody complaint.

2. The custody agreement shall be signed by all parties and the signatures shall be witnessed or notarized **unless the agreement is reached before the Custody Conference Officer or the Court.**

3. The custody agreement shall contain a proposed order of court with a distribution legend.

4. An administrative fee of \$150.00 shall be paid to the Prothonotary in accordance with Rule 1915.3(a) or (b).

5. The Prothonotary shall forward the original custody complaint and the signed and witnessed custody agree-

ment to the Court Administrator's Office for review and assignment to the judge assigned to oversee custody matters.

6. Agreements shall not contain any provision relating to child support.

7. Agreements shall contain a paragraph regarding the parties' responsibilities if one party seeks permission to relocate when such relocation will significantly impair the ability of a non-relocating party to exercise his or her custodial rights. The agreement shall contain the language and exhibit used by the Court and this may be obtained from the Court Administrator's Office.

Rule 1915.15(c). Seminar Attendance and Custody Conference Scheduling Order—Custody Complaint, Custody Count in Divorce Complaint or Petition for Modification or Petition for Contempt.

In addition to the information required by Pa.R.C.P. 1915.15(a) or 1915.15(b), each Custody Complaint, Petition for Modification, Petition for Contempt, or custody count in a Divorce action relating to child custody shall include a Seminar Attendance and Custody Conference Scheduling Order in substantially the following form:

	: IN THE COURT OF COMMON PLEAS
	: DAUPHIN COUNTY, PENNSYLVANIA
Plaintiff	:
	: CIVIL ACTION
	: CUSTODY
	:
Defendant	: NO.

SEMINAR ATTENDANCE AND CUSTODY CONFERENCE SCHEDULING ORDER

AND NOW, upon consideration of the attached Complaint, Petition for Modification or Petition for Contempt of a Custody Order, it is hereby ordered that the parties and their respective counsel appear before the Custody Conference Officer, on the _____ day of _____, 20____, Dauphin County Courthouse, 3rd Floor, 101 Market Street, **Suite 300**, Harrisburg, Pennsylvania for a Custody Conference.

At such Conference, an effort will be made to conciliate and resolve the issues in dispute; or if this cannot be accomplished, to define and narrow the issues to be heard by the Court.

Children should not attend the conference unless requested by the Custody Conference Officer.

All parties are ORDERED to attend a four hour educational parenting seminar (Seminar) and file with the Prothonotary and bring with you to the Custody Conference your Seminar Certificate of Attendance you will receive at the Seminar. The Plaintiff is scheduled to attend on _____ at _____ o'clock and the Defendant is scheduled to attend on _____ at _____ o'clock. Any requests for rescheduling must be directed to the Seminar Provider and will be granted only upon cause shown. (See attached Seminar Provider brochure for additional information).

FAILURE TO ATTEND THE SEMINAR MAY BE CONSIDERED AS CONTEMPT OF COURT PUNISHABLE BY FINE, OTHER APPROPRIATE SANCTIONS INCLUDING UP TO SIX (6) MONTHS INCARCERATION.

IF YOU FAIL TO APPEAR AT THE CUSTODY CONFERENCE AS PROVIDED BY THIS ORDER, AN ORDER FOR CUSTODY MAY BE ENTERED AGAINST YOU OR THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

You must complete and file with the Prothonotary a Criminal or Abuse History Verification regarding you and anyone living in your household [**and your Proposed Parenting Plan**] on or before _____. The Criminal or Abuse History Verification [**and Proposed Parenting Plan are**] is attached. [**These forms are**] **This form is** also available at www.dauphincounty.org/government/Court-Departments/Self-Help-Center.

You must mail a copy of your Criminal or Abuse History Verification [**and your Proposed Parenting Plan**] to all other parties by _____.

No party may make a change in the residence of any child which significantly impairs the ability of the other party to exercise custodial rights without first complying with all of the applicable provisions of 23 Pa.C.S. § 5337 and Pa.R.C.P. No. 1915.17 regarding relocation.

IF ANY PARTY TO THIS CUSTODY ACTION IS INCARCERATED AT ANY STAGE OF THE PROCEEDINGS, THE CUSTODY CONFERENCE OFFICER OR ASSIGNED JUDGE WILL MAKE REASONABLE EFFORTS TO ARRANGE FOR THE INCARCERATED PARTY TO PARTICIPATE BY TELEPHONE OR VIDEO CONFERENCE. IF YOU, AS AN INCARCERATED PARTY, DO NOT THINK SUCH ARRANGEMENTS HAVE BEEN MADE, PLEASE CONTACT THE COURT ADMINISTRATOR'S OFFICE AT (717) 780-6630 OR BY MAIL AT 3RD FLOOR, DAUPHIN COUNTY COURTHOUSE, 101 MARKET STREET, HARRISBURG, PA 17101.

FOR THE COURT:

Date _____ By _____
Custody Conference Officer

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE. IF NEEDED, YOU SHOULD CALL TODAY TO MAKE AN APPOINTMENT PRIOR TO YOUR CUSTODY CONFERENCE.

DAUPHIN COUNTY LAWYER REFERRAL SERVICE
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Dauphin County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court,

please contact the Court Administrator's Office at (717) 780-6630. All arrangements must be made at least 72 hours prior to any hearing or conference.

IF ANY PARTY NEEDS AN INTERPRETER AT EITHER THE CUSTODY CONFERENCE OR TRIAL, PLEASE CONTACT THE COURT ADMINISTRATOR'S OFFICE AT (717) 780-6630 AS SOON AS POSSIBLE. IT TAKES A MINIMUM OF FIVE DAYS TO SCHEDULE AN INTERPRETER AND FAILURE TO MAKE A TIMELY REQUEST COULD DELAY THE PROCEEDINGS.

[1920.42. Affidavit Under Section 3301(d)(1) of the Divorce Code.

The affidavit required under Section 3301(d)(1) of the Divorce Code shall be filed with the Prothonotary before it is served. The opposing party must be served with a certified copy of the Affidavit. Moving party must wait a minimum of twenty (20) days after service of the Affidavit before serving the Notice of Intention to File Praecepte to Transmit Record and Counter Affidavit or filing the Waiver of Notice as provided in Pa.R.C.P. 1920.72(c).]

Rule 1920.43. Pre-Hearing Divorce Matters, Special Relief, Advance Distribution, Discovery Issues, **Post-Divorce Issues (Other Than Exceptions to Master's Report)**.

(a) All Petitions for Special Relief and motions raising pre-trial and post-divorce issues **other than Exceptions to Master's Report** in divorce cases shall be assigned to the Divorce Master.

(b) Any Pre-Hearing or **post-divorce** Petition or Motion in a divorce matter shall comply with Dauphin County Rule 205.2(a)(3)(b) and shall include the following:

(1) A certification by the filing party that (s)he disclosed the full text of the Petition or Motion and the Proposed Order to all parties by facsimile or electronic communication and that concurrence to both the Petition or Motion and Proposed Order has been given or denied by each party in accordance with Dauphin County Local Rule 208.2(d).

(2) If concurrence to both the Petition or Motion and the Proposed Order is denied by any party or any party has not responded in a timely manner, the Petition or Motion shall be deemed to be contested and the moving party shall attach:

(a) A Rule to Show Cause in accordance with Pa.R.C.P. 206.5;

(b) A Proposed Order;

(c) A Certificate of Service;

(d) A Self Represented Party Entry of Appearance if unrepresented by legal counsel.

(3) If all parties concur, the Petition or Motion shall be deemed to be uncontested and the filing party shall attach the proposed agreed Order.

(c) If the Petition or Motion is deemed to be contested, a Rule to Show Cause shall be issued by a Family Court Judge.

(1) When a response to the Rule to Show Cause is filed, the moving party shall file an original and a copy of a Motion for Appointment of Master with the Prothonotary together with the [\$ 150.00] \$75.00 administrative fee in accordance with Dauphin County Rule 1920.51.

(2) The Prothonotary shall promptly forward the Motion for Appointment of Master to the Court Administrator's Office. A Family Court Judge will appoint the Divorce Master to hear the Pre-Hearing matter.

(3) The Divorce Master will schedule a Pre-Hearing Conference.

(4) If an agreement is reached at the Pre-Hearing Conference, the Divorce Master shall file a Memorandum memorializing the agreement with the Prothonotary and shall forward the agreed Order to a Family Court Judge for review.

(5) If an agreement is not reached at the Pre-Hearing Conference, the Divorce Master shall schedule a hearing.

(6) Following the hearing, the Divorce Master shall file with the Prothonotary a Report and Recommendation and Proposed Order regarding the Pre-Hearing matter within ten (10) days from the date of the hearing. A copy of the Report and Recommendation and Proposed Order shall be mailed to all parties.

(7) The Prothonotary shall promptly forward the Report and Recommendation and Proposed Order to the Court Administrator's Office for assignment to a Family Court Judge to issue an Order.

(8) Within ten (10) days from the date of the Court Order, for good cause shown, e.g. immediate irreparable harm or other extraordinary circumstances, a party may petition the Court to reconsider the Order.

1920.51. Equitable Distribution, Divorce, Annulment, Alimony Pendente Lite, Alimony, Counsel Fees, Costs and Expenses.

(2) An original and a copy of the Motion for Appointment of Master shall be filed with the Prothonotary, together with the administrative fee. **If a Motion for Appointment of Master is filed under Dauphin County Local Rule 1920.43, an administrative fee of \$75.00 shall be paid to the Prothonotary. If a Motion for Appointment of Master is filed under Dauphin County Local Rule 1920.51 and the Master was previously appointed because of pretrial matters, the administrative fee of \$75.00 shall be paid to the Prothonotary. If a Master has not been previously appointed, an administrative fee of \$150.00 [unless this fee has already been paid] shall be paid to the Prothonotary.** The Motion for Appointment of Master shall be in form prescribed by Dauphin County Local Rule 1920.74(a).

1920.51A. Filing Fee; Compensation of Master and Stenographer.

(1) Upon the filing of the Complaint, the plaintiff shall pay to the Prothonotary, in addition to any other charges, an administrative fee in the amount of \$125.00.

(2) A Motion for Appointment of Master and a proposed order shall be in the form prescribed by [Pa.R.C.P. 1920.74] **Dauphin County Local Rule 1920.74(a) and (b)** and shall be filed with the Prothonotary. Simultaneously with the filing of the Motion for Appointment of Master **in accordance with Dauphin County Local Rule 1920.43, an administrative fee of \$75.00 shall be paid to the Prothonotary. If a Motion for Appointment of Master is filed under Dauphin County Local Rule 1920.51 and a Motion had previously been filed under Dauphin County Local Rule 1920.43, an additional administrative fee of \$75.00 shall be paid to the Prothonotary. If a Motion for Appointment of Master had not been previously**

filed, an administrative fee of \$150.00 shall be paid to the Prothonotary in addition to any other charges. [**Divorce Masters shall be appointed by the Court when the requirements of Dauphin County Local Rule 1920.51(a)(3) have been met.**] If a Motion for Appointment of Master is filed for Post-Divorce issues, an administrative fee of \$150.00 shall be paid to the Prothonotary if this is the first time that a request for a Divorce Master has been made. If a Divorce Master had been previously appointed, the administrative fee is \$75.00.

[(3) Divorce Masters shall be compensated at a rate set by order of court.

(4)] (3) The Court shall pay an appearance fee by a stenographer [**who**] if **one** is hired to record the masters' proceedings. The cost of transcripts shall be borne by the parties.

These amendments shall be effective July 1, 2015 after publication in the *Pennsylvania Bulletin*.

By the Court

RICHARD A. LEWIS,
President Judge

[Pa.B. Doc. No. 15-1314. Filed for public inspection July 17, 2015, 9:00 a.m.]

LEHIGH COUNTY

Administrative Order; Local Rules of Court; No. 2015-J-32

Order of Court

And Now, this 25th day of June, 2015, it is hereby Ordered that effective 30 days after publication in the *Pennsylvania Bulletin*, the following Lehigh County Family Court Rules are Rescinded:

Rule 1920.12 Complaint

Rule 1920.13 Pleading More than One Cause of Action. Alternative Pleading

Rule 1920.16 Severance of Actions and Claims. Interim Relief Program

Rule 1920.31 Alimony, Alimony Pendente Lite, Counsel Fees, Costs and Expenses

Rule 1920.51 Hearing by the Court. Appointment of Master. Notice of Hearing

Rule 1920.55-2 Exceptions to Master's Report

It is further Ordered that effective 30 days after publication in the *Pennsylvania Bulletin*, the following Lehigh County Family Court Rules are Adopted:

Rule 1920.31. Joinder of Related Claims. Child and Spousal Support. Alimony. Alimony Pendente Lite. Counsel Fees. Expenses.

(a)(3) Where a claim for spousal support and/or alimony pendente lite is made in a complaint for divorce or annulment or in a counterclaim thereto, the party filing a pleading containing such a claim shall:

(i) file at the Domestic Relations Section a time-stamped copy of the pleading and proof of service thereof, a praecipe for conference, and the Domestic Relations data sheet, and

(ii) serve a copy of the request for conference on the opposing party, or if represented, on the attorney of record in the action for divorce or annulment.

* * * * *

(e) The divorce master shall be appointed to consider petitions seeking interim counsel fees and expenses. Such petitions shall be filed with the Clerk of Judicial Records and a time-stamped copy sent to the master.

(1) In addition to the information required to be submitted pursuant to Pa.R.C.P. 1920.31(a)(1), the petition shall include written estimates as to the amounts requested for interim counsel fees and expenses and the basis for the requests.

(2) All averments contained in such petitions shall be deemed denied. However, the respondent shall have a period of twenty (20) days in which to file an answer, which shall be filed and a time-stamped copy sent to Family Court Administration.

(3) The matter shall be scheduled for a conference with the master. After consideration of the petition, the answer, supporting documentation, and argument, the master shall prepare a recommended Order addressing the petition.

(4) A recommended Order which is not based upon agreement of the parties shall provide for twenty (20) days from the filing, during which time either party may file exceptions and demand a hearing de novo before the Court. A time-stamped copy of exceptions filed shall be provided to Family Court Administration for scheduling.

(f) The master shall be appointed to consider petitions for modification of post-divorce alimony. Such petitions shall be filed with the Clerk of Judicial Records and a time-stamped copy sent to Family Court Administration.

(1) The matter shall be scheduled for conference. If the petition is not resolved during the conference, a record hearing shall be scheduled before the master.

(2) The notes of testimony shall be transcribed and a report shall be generated by the master as soon as administratively possible following the hearing.

(3) Either party may file exceptions to the report of the master within twenty (20) days from the date the report is filed of record.

(4) A time-stamped copy of any such exceptions filed shall be provided to Family Court Administration to schedule for argument before a judge and to set a briefing schedule.

Rule 1920.43. Special Relief.

* * * * *

(c) A petition for special relief shall be filed with the Clerk of Judicial Records, and a time-stamped copy delivered to Family Court Administration for scheduling. The master may be appointed to consider such petitions.

Rule 1920.51. Hearing by the Court. Appointment of Master. Notice of Hearing.

* * * * *

(f) A Motion for Appointment of a Master as required by Pa.R.C.P. 1920.33 shall be filed with the Clerk of Judicial Records and a time-stamped copy sent to Family Court Administration.

(1) Upon appointment, the master shall schedule an initial conference with counsel for the parties, or with self-represented parties.

(2) At the initial conference, counsel and/or the parties shall supply the master with background information for the case, a list of remaining discovery needs, and suggestions as to an appropriate track for resolving the issues in the case.

(3) Following the initial conference, if appropriate, the master shall prepare a recommended Order directing additional discovery, setting appropriate deadlines and scheduling the matter for further proceedings. Any party dissatisfied with all or any part of a recommended Order may file a written demand for review by the Court pursuant to the remedy and procedure set forth in the Order.

(4) The matter shall then be scheduled for a settlement conference, at which the parties must appear unless excused by the master.

(5) If the case is not resolved following one or more settlement conferences, the matter shall be listed for a hearing over which the master shall preside.

(i) The master shall set deadlines for the filing of pre-trial statements, and Family Court Administration shall schedule the hearing.

(ii) Absent alternative arrangements which may be made by the parties, Family Court Administration shall arrange for the appearance of a stenographer at the hearing.

(iii) The parties shall be responsible for payment of all appearance fees for the stenographer, along with payment of all fees due to transcribe the notes of testimony from the hearing. Unless otherwise allocated, each party to the action shall be responsible for payment of fifty percent (50%) of all stenographic services fees incurred relating to the stenographer's appearance at the hearing and transcription of all notes of testimony from all hearings in the matter.

(iv) Following the hearing, either party may submit proposed findings of fact and/or conclusions of law or other legal memoranda. However, no prejudice shall result from any party's failure to submit such documents.

Rule 1920.55-1. Alternative Hearing Procedures for Matters Referred to a Master.

Pursuant to Pa.R.C.P. 1920.55-1(b), Lehigh County has adopted the procedure set forth in Pa.R.C.P. 1920.55-2 for all divorce/annulment proceedings referred to a master.

Rule 1920.55-2. Master's Report. Notice. Exceptions. Final Decree.

The party filing exceptions shall provide a time-stamped copy to Family Court Administration to schedule argument before a judge and to establish a briefing schedule.

By the Court

CAROL K. MCGINLEY,
President Judge

[Pa.B. Doc. No. 15-1315. Filed for public inspection July 17, 2015, 9:00 a.m.]

NORTHAMPTON COUNTY

**Administrative Order 2015-5 Custody of Exhibits;
C-48CV2015-004903**

Order of Court

And Now, this 3rd day of June, 2015, Northampton County Court of Common Pleas Administrative Order 1997-3—Custody of Exhibits is vacated.

The responsibility for the custody of exhibits entered into the record in all matters of the Court of Common Pleas of Northampton County (Criminal Division, Civil Division, Orphans' Court, Juvenile Court and Domestic Relations) shall now be as follows:

I. Criminal Division.

A. All documentation, photographs and/or digital data storage devices (such as CD and flash drives) which are received in evidence during a hearing or trial of any cause shall be retained during the hearing or trial by the Official Court Reporter. During the hearing or trial, the Official Court Reporter shall be responsible for the custody and safekeeping of all documentation and photographic exhibits, absent a specific directive from the Court. At the conclusion of the hearing or trial, the Official Court Reporter shall be charged with delivering those exhibits to the Clerk of Criminal Court for retention until further Order of Court. With regard to exhibits which contain sensitive or proprietary information, upon application to the Court, the Presiding Judge, upon the agreement of the parties or at the discretion of the Judge, may enter an Order of Court or directive on the record and in the official transcript permitting the party who offered the exhibit to retain possession of an exhibit.

B. All exhibits in the nature of firearms, knives, other weapons, narcotics, controlled substances, other contraband and physical objects entered into the record by the Commonwealth which have been admitted into evidence shall be marked on the evidentiary manifest maintained by the Official Court Reporter, but shall remain in the physical possession of the Commonwealth and/or police prosecutor for safekeeping during recess and at the conclusion of the matter. Thereafter, the retention of such evidence shall remain with the Commonwealth and/or the police prosecutor absent the agreement of the parties or other directive of the Court which must be placed into the official record.

C. In all criminal matters in which documents, photographs, digital data storage devices and/or other physical exhibits shall be retained for transmittal with the official record for appellate review, the Clerk of Criminal Court shall segregate and store such evidence for transmittal with the official file.

D. All court exhibits maintained by the Clerk of Criminal Court shall be sealed and unavailable for public inspection, absent an Order of Court permitting inspection. If a media representative or member of the public desires to inspect or photocopy any court exhibit(s) retained by the Clerk of Criminal Court, the individual shall file a petition with the Presiding Judge or, if the Presiding Judge is not available, with the President Judge, requesting permission to inspect the exhibit(s). The petition shall identify the exhibits sought to be inspected or photocopied, the case to which they are related, and the petitioner's relationship, if any, to the matter in controversy. Upon receipt of the petition, the Presiding Judge/ President Judge shall enter an Order granting the petition, denying the petition, or placing the

matter on a Miscellaneous Hearing List for disposition after notice to the Commonwealth, through the Office of the District Attorney of Northampton County (or other prosecuting agency), record counsel for the Defendant and the Defendant, with notice of the hearing.

E. The official criminal court file, absent exhibits, shall be available for public inspection and available to photocopy without restriction.

II. *Civil Division.*

A. In civil cases, hearing and trial exhibits shall be retained by the Official Court Reporter throughout the hearing or trial, absent other directive from the Court. At the conclusion of the proceeding, the court exhibits shall be filed and stored with the Clerk of Court until final resolution by the appellate courts and/or the time-frame for perfecting an appeal has expired. If an appeal has been taken, the exhibits shall be retained until disposition of the appeal. Once the resolution becomes a final order, the party who offered the exhibits may reclaim them for a period of sixty (60) days, after which the Clerk of Court shall petition the Court for an Order for the destruction or other disposition of said exhibits and place the matter onto a Miscellaneous Hearing List, with notice to the parties.

B. At the conclusion of the hearing or trial, upon the agreement of the parties, the Presiding Judge shall permit the party who offered the exhibits the ability to retain the exhibits. Said agreement should be entered as a written stipulation/order or placed in the official trial transcript.

C. This Administrative Order in no way impacts the administration of exhibits which have been sealed by the Court and retained by the Prothonotary due to their sensitive and confidential nature, such as medical records and psychological records. If a media representative or member of the public desires to inspect or photocopy such exhibits, the individual shall file a petition with the Presiding Judge or, if the Presiding Judge is not available, with the President Judge, requesting permission to inspect the exhibit(s). The petition shall specifically identify the exhibits sought to be inspected or photocopied, the case to which they are related, and the petitioner's relationship, if any, to the matter in controversy. Upon receipt of the petition, the Presiding Judge/ President Judge shall enter an Order granting the petition, denying the petition, or placing the matter on a Miscellaneous Hearing List for disposition after notice to all record parties.

III. *Orphans' Court.*

A. In juvenile delinquency and dependency cases, all files and exhibits maintained by Orphans' Court shall remain sealed and unavailable for public inspection, absent judicial approval.

B. In Orphans' Court matters involving adoption, guardianship, minors and incompetency, because of the sensitive and confidential nature of these matters, all exhibits retained by the Clerk of Orphans' Court shall

remain sealed and unavailable for review by the public. In such matters, if a media representative or member of the public desires to inspect or photocopy exhibits retained by the Orphans' Court, the individual shall file a petition with the Presiding Judge or, if the Presiding Judge is not available, with the President Judge, requesting permission to inspect the exhibit(s). The petition shall specifically identify the exhibits sought to be inspected or photocopied, the case to which they are related, and the petitioner's relationship, if any, to the matter in controversy. Upon receipt of the petition, the Presiding Judge/ President Judge shall enter an Order granting the petition, denying the petition, or placing the matter on a Miscellaneous Hearing List for disposition after notice to all record parties.

C. All estate and tax filings and related exhibits shall be available for inspection and photocopying as a public record, absent directive by the Court.

IV. *Domestic Relations Section.*

A. In Domestic Relations cases, all exhibits entered before the Domestic Relations Hearing Officer, on de novo appeal, or in non-compliance court, shall be placed in the official file for retention by the Domestic Relations Section. Because of sensitive financial, personal and other confidential information contained in domestic relations matters, all files and exhibits shall remain sealed and unavailable for public inspection. If a media representative or member of the public desires to inspect or photocopy a file or exhibit(s) retained by the Domestic Relations Section, the individual shall file a petition with the Director of the Domestic Relations Section, requesting permission to inspect the file and/or exhibit(s). The petition shall specifically identify the exhibits sought to be inspected or photocopied, the case to which they are related, and the petitioner's relationship, if any, to the matter in controversy. Upon receipt of the petition, the Director of the Domestic Relations Section shall confer with the Administrative Judge of the Domestic Relations Section, who shall enter an Order granting the petition, denying the petition, or placing the matter on a Miscellaneous Hearing List for disposition after notice to all record parties.

B. Once the minor children, subject of the support order, have been emancipated and/or the support order has been terminated and the case closed, the Domestic Relations Section shall notify the party offering the exhibits that said exhibit shall be destroyed within thirty days should the party fail to appear at the Domestic Relations Office to reclaim any exhibit. The Domestic Relations Section does not need to apply to the President Judge and/or the Presiding Judge prior to destruction of exhibits consistent with this Administrative Order.

By the Court

STEPHEN G. BARATTA,
President Judge

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